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INTERNAL SECURITY MANUAL

Revised to July 1973

VOLUME II

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PROVISIONS OF  
FEDERAL STATUTES, EXECUTIVE ORDERS, AND  
CONGRESSIONAL RESOLUTIONS RELATING  
TO THE INTERNAL SECURITY OF  
THE UNITED STATES

[Revision of Senate Document No. 126, 86th Congress, 2d Session]

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AT THE REQUEST OF THE  
SUBCOMMITTEE TO INVESTIGATE THE  
ADMINISTRATION OF THE INTERNAL SECURITY  
ACT AND OTHER INTERNAL SECURITY LAWS  
OF THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE



Printed for the use of the Committee on the Judiciary

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### SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL SECURITY LAWS

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## RESOLUTION

*Resolved, by the Internal Security Subcommittee of the Senate Committee on the Judiciary, That the attached publication, "Internal Security Manual, Revised to July 1973," shall be printed for the use of the Subcommittee.*

JAMES O. EASTLAND, *Chairman.*

(II)

0074588

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COMPILATION OF UNITED STATES LAWS, EXECUTIVE  
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SECURITY—Continued

§ 159.1500 *Appendix A—Original Classification Authorities*  
(See § 159.105).

Part 1—*Top secret original classification authorities.* Under the provisions of Executive Order 11652, reference (b), only the Secretary of Defense and the Secretaries of the Military Departments may designate officials to exercise Top Secret original classification authority. Designations may be made from the following groups of officials:

1. Senior principal deputies and assistants to the Secretaries.

2. Heads of major elements of the Department of Defense and their senior principal deputies and assistants.

Attached is a listing of officials designated by the Secretary of Defense to exercise Top Secret original classification authority.

Part 2—*Secret original classifications authorities.* Secret original classification authority may be exercised by designated Top Secret original classification authorities and by such subordinate officials as are designated in writing by:

1. The Secretary of Defense or the Secretaries of the Military Departments.

2. Senior principal deputies and assistants to the Secretaries who themselves have been designated Top Secret original classification authorities.

Such designations shall be made in accordance with § 159.105 of the part and shall be limited further to those officials whose duties and responsibilities are such as to involve the origination and evaluation of official information warranting Secret classification.

Part 3—*Confidential original classification authorities.* Confidential original classification authority may be exercised by officials designated to exercise Top Secret or Secret original classification authority and by such subordinate officials as they may designate in writing. Such designations shall be made in accordance with § 159.105 of the part and shall be limited further to those officials whose duties and responsibilities are such as to involve the origination and evaluation of official information warranting Confidential classification.

TOP SECRET CLASSIFICATION AUTHORITIES  
OFFICE, SECRETARY OF DEFENSE

(21)

Secretary of Defense	1
Deputy Secretary of Defense	1
Director of Defense Research and Engineering	1
Principal Deputy Director	1
Special Assistant (net technical assessment)	1
Assistant Secretaries of Defense	9
General counsel of the Department of Defense	1
Special Assistant and Assistant to the Secretary and Deputy Secretary of Defense	2
Assistant to the Secretary of Defense (Atomic Energy)	1
Chairman, Military Liaison Committee (AEC)	1
Defense Advisor, U.S. Mission to NATO	1
Director, Weapons Systems Evaluation Group	1

ORGANIZATION, JOINT CHIEFS OF STAFF

(32)

Chairman, Joint Chiefs of Staff	1
Assistant to the Chairman, Joint Chiefs of Staff	1
Assistant to the Chairman, Joint Chiefs of Staff for Strategic Arms Negotiations	1
Director, Joint Staff	1
Secretary, Joint Staff	1
Director for Personnel, J-1	1
Director for Operations, J-3	1
Vice Director for Operations, J-3	1
Deputy Directors for Operations, J-3	7
Director for Logistics, J-4	1
Director for Plans and Policy, J-5	1
Deputy Directors for Plans and Policy, J-5	3
Director for Communications-Electronics, J-6	1
Chief, Studies, Analysis and Gaming Agency	1
Director, Joint Continental Defense Systems, Integration Planning Staff	1
U.S. Representative to Military Committee, NATO	1
U.S. Representative to Permanent Military Deputies Group, CENTO (Chief, US Element CENTO)	1
Chairman, U.S. Delegation, United Nations Military Staff Committee	1
Chairman, U.S. Delegation, Inter-American Defense Board	1
Chairman, U.S. Delegation, Joint Brazil-United States Defense Commission	1
Chairman, U.S. Delegation, Joint Brazil-United States Military Commission	1
Chairman, U.S. section, Joint Mexico-United States Defense Commission	1
Chairman, U.S. section, Canada-United States Military Cooperation Committee	1
Commander in Chief, United Nations Command	1

## UNIFIED AND SPECIFIED COMMANDS

(36)

U.S. European Command (EUCOM)-----	2
Commander in Chief-----	1
Chief of Staff-----	1
U.S. Pacific Command (PACOM)-----	6
Commander in Chief-----	1
Chief of Staff-----	1
Deputy Chief of Staff, Plans and Operations-----	1
Deputy Chief of Staff for Security Assistance, Logistics and Administration-----	1
Commander, U.S. Military Assistance Command, Vietnam-----	1
Commander, U.S. Military Assistance Command, Thailand-----	1
Continental Air Defense (CONAD)-----	10
Commander in Chief-----	1
Chief of Staff-----	1
Commander in Chief, North American Defense Command (NORAD)-----	1
Commanders, CONAD/NORAD Regions (Exc. 22d)-----	6
Deputy Commander, 22d NORAD Region-----	1
Alaskan Command (ALCOM)-----	2
Commander in Chief-----	1
Chief of Staff-----	1
Southern Command (USSOUTHCOM)-----	1
Commander in Chief-----	1
Atlantic (LANTCOM)-----	2
Commander in Chief-----	1
Chief of Staff-----	1
Readiness Command (CINCREDB)-----	2
Commander in Chief-----	1
Deputy Commander-----	1
Strategic Air Command (SAC)-----	11
Commander in Chief-----	1
Vice Commander in Chief-----	1
Chief of Staff-----	1
Commanders, Air Forces (2, 8, 15)-----	3
Commander, 1st Strategic Aerospace Division-----	1
Commander, 544 Aerospace Reconnaissance Technical Wing-----	1
Senior SAC X-Ray Representative-----	1
Director, Strategic Target Planning-----	1
Deputy Director-----	1



## DEFENSE AGENCIES

(213)

Defense Advanced Research Projects Agency (DARPA)-----	2
Director-----	1
Deputy Director-----	1
Defense Civil Preparedness Agency (DCPA)-----	1
Director-----	1
Defense Communications Agency (DCA)-----	7
Director-----	1
Vice Director-----	1
Chief of Staff-----	1
Deputy Directors-----	4
Defense Contract Audit Agency (DCAA)-----	1
Director-----	1
Defense Intelligence Agency (DIA)-----	96
Director-----	1
Deputy Director-----	1
Chief of Staff-----	1
Deputy Directors-----	7
Assistant Deputy Director for CI and Security-----	1
Chief, Operations/Coordination Division-----	1
Chief, Operational Intelligence Division-----	1
Defense Attaches-----	83
Defense Mapping Agency (DMA)-----	8
Director-----	1
Deputy Director-----	1
Deputy Director for Plans, Requirements and Training-----	1
Deputy Director for Programs, Production and Operations-----	1
Director, DMA Topographic Center-----	1
Director, DMA Hydrographic Center-----	1
Director, DMA Aerospace Center-----	1
Director, Inter-American Geodetic Survey-----	1
Defense Nuclear Agency (DNA)-----	4
Director-----	1
Deputy Director, Operations and Administration-----	1
Deputy Director, Science and Technology-----	1
Commander, Field Command-----	1
Defense Security Assistance Agency (DSAA)-----	2
Director-----	1
Deputy Director-----	1
Defense Supply Agency (DSA)-----	1
Director-----	1

National Security Agency (NSA).....	89
Director, NSA/CSS.....	1
Deputy Director, NSA.....	1
Deputy Chief, CSS.....	1
Executive Assistant to the Director, NSA.....	1
Assistant Directors.....	6
Deputy Assistant Directors.....	6
Chief, Policy Coordination Staff.....	1
Chief of Operations Research.....	1
Chief of Telecommunications.....	1
Chief, Installations and Logistics.....	1
Inspector General.....	1
Chiefs of Production Groups.....	5
Chiefs of NSA Offices.....	41
Chief of Division, Policy Coordination Staff.....	1
Chiefs of NSA Field Elements.....	12
Senior U.S. Liaison Officers.....	3
U.S. Liaison Officer, Cheltenham.....	1
NSA Classification Advisory Officers.....	5
Defense Investigative Service (DIS).....	2
Director.....	1
Deputy Director.....	1

## DEPARTMENT OF THE ARMY

(61)

Secretary, Under Secretary and Assistant Secretaries of the Army.....	6
General Counsel, Office of the Secretary of the Army.....	1
Chief of Staff, Vice Chief of Staff, Assistant Vice Chief of Staff, Secretary of the General Staff.....	4
Deputy Chiefs of Staff.....	3
Assistant Chiefs of Staff.....	3
Chief of Research and Development.....	1
Chief, Office of Reserve Components.....	1
Chief, National Guard Bureau.....	1
Chief, Army Reserve.....	1
Chief of Engineers.....	1
Comptroller of the Army.....	1
The Inspector General.....	1
Commanding Generals:	
U.S. Continental Army Command (CONARC).....	1
CONUS Armies.....	4
U.S. Army Military District of Washington.....	1
Army Components of Unified Commands.....	7
Seventh Army.....	1
Eighth Army.....	1
U.S. Armies: Hawaii Japan, Vietnam.....	
U.S. Army Base Command, Okinawa.....	
U.S. Army Theater Support Command, Europe.....	
U.S. Army Southern European Task Force.....	
U.S. Army Materiel Command.....	
U.S. Army Aviation Systems Command.....	
U.S. Army Electronics Command.....	
U.S. Army Missile Command.....	
U.S. Army Mobility Equipment Command.....	
U.S. Army Munitions Command.....	
U.S. Army Tank-Automotive Command.....	
U.S. Army Test and Evaluation Command.....	
U.S. Army Weapons Command.....	
U.S. Army Combat Developments Command.....	
U.S. Army Strategic Communications Command.....	
U.S. Army Security Agency.....	
U.S. Army Intelligence Command.....	
Safeguard System Manager.....	
Commanding General, Safeguard System Command.....	
Commander, Safeguard System Evaluation Agency.....	

## DEPARTMENT OF THE NAVY

(119)

Secretary of the Navy, Under Secretary and Assistant Secretaries of the Navy-----	6
General Counsel of the Navy-----	1
Chief of Naval Research-----	1
Director, Naval Research Laboratory-----	1
Chief and Vice Chief of Naval Operations-----	2
Assistant Vice Chief of Naval Operations/Director of Naval Administration (Op-09B)-----	1
Director of Naval History (Op-09BH)-----	1
Navy Inspector General (Op-008)-----	1
Director, Office of Navy Program Planning (Op-090)-----	1
Director, General Planning and Programming Division (Op-90)-----	1
Director, Systems Analysis Division (Op-96)-----	
Director, Office of Tactical Electromagnetic Programs (Op-093)-----	
Director, Office of Command Support Programs (Op-094)-----	1
Director, Naval Communications Division (Op-941)/Commander Naval Communications Command-----	1
Director, Naval Intelligence Division (Op-942)/Commander, Naval Intelligence Command-----	1
Head Security of Military Information Branch (Op-942D)-----	1
Director, Fleet Readiness Liaison and Command Information Support Division (Op-943)-----	1
Director, Signals Exploitation and Security Division (Op-944)/Commander, Naval Security Group Command-----	1
Director, Meteorology Division (Op-945)/Commander Naval Weather Service-----	1
Director, Reconnaissance Ocean Surveillance Division (Op-946)-----	1
Director, Office of Antisubmarine Warfare Program (Op-095)-----	1
Director, Office of Research, Development- 098)*-----	1
Director, Research and Development Programming Division (Op-980)-----	1
Director, Undersea and Strategic Warfare Development Division (Op-981)-----	1
Director, Tactical Air, Surface, and Electronic Warfare Division (Op-982)-----	1
Director, Test and Evaluation Division (Op-983)-----	1
Director, Research and Development Support Division (Op-984)-----	1
Director, Atomic Energy Division (Op-985)-----	1
Director, Navy Space and Command Support Division (Op-986)-----	1
Deputy Chief of Naval Operations (Manpower and Naval Reserve) (Op-01)/Chief of Naval Personnel-----	1
Deputy Chief of Naval Operations (Submarine Warfare) (Op-02)-----	1
Director, Submarine Systems and Support Division (Op-20)-----	1
Director, Strategic Submarine Division and TRIDENT Program Coordinator (Op-21)-----	1
Director, Attack Submarine Division and SSN Program Coordinator (Op-22)-----	1
Director, Deep Submergence Systems Division and Deep Submergence Program Coordinator (Op-23)-----	1
Deputy Chief of Naval Operations (Surface Warfare) (Op-03)-----	1
Director, Surface Warfare Division (Op-32)-----	1
Director, Combat Systems Division (Op-35)-----	1
Director, Ship Acquisition and Improvement Division (Op-36)-----	1
Deputy Chief of Naval Operations (Logistics) (Op-04)-----	1
Director, Logistics Plans Division (Op-40)-----	1
Director, Material Division (Op-41)-----	1
Director, Ship Material Readiness Division (Op-43)-----	1
Director, Shore Installation Division (Op-44)-----	1
Deputy Chief of Naval Operations (Air Warfare) (Op-05)-----	1
Director, Aviation Plans and Requirements Division (Op-50)-----	1
Director, Aviation Programs Division (Op-51)-----	1
Director, Air Warfare Division (Op-55)-----	1

\*As in original. Should read: Director, Office of Research, Development, Test and Evaluation (OP-098).



Deputy Chief of Naval Operations (Plans and Policy) (Op-06)-----	1
Director, Strategic Plans and Policy Division (Op-60)-----	1
Director, Politico-Military Policy Division (Op-61)-----	1
Director, Strategic Offensive and Defensive Systems Division (Op-62)-----	1
Director, Foreign-Military Assistance and Sales Division (Op- 63)-----	1
Commander Military Sealift Command-----	1
Chief and Vice Chief of Naval Material-----	2
Director of Navy Laboratories-----	1
Commander, Naval Air Systems Command-----	1
Commander, Naval Electronics Systems Command-----	1
Commander, Naval Facilities Engineering Command-----	1
Commander, Naval Ordnance System Command-----	1
Commander, Naval Ship Systems Command-----	1
Commander, Naval Supply Systems Command-----	1
Commander, Naval Weapons Center, China Lake, Calif-----	1
Commander in Chief:	
U.S. Pacific Fleet-----	1
U.S. Atlantic Fleet-----	1
U.S. Naval Forces Europe-----	1
Commanders:	
1st, 2d, 6th, and 7th Fleets-----	4
Commanders, U.S. Naval Forces:	
Azores, Japan, Iceland, Marianas, Philippines, Korea, Vietnam--	7
Commander, Middle East Force-----	1
Commander, South Atlantic Force, U.S. Atlantic Fleet-----	1
Commander, Key West Force-----	1
U.S. Commander, Eastern Atlantic-----	1
Oceanographer of the Navy-----	1
Commander, U.S. Taiwan Defense Command, Pacific Fleet-----	1
Commander, U.S. Antisubmarine Warfare Force:	
U.S. Atlantic Fleet-----	1
U.S. Sixth Fleet-----	1
U.S. Pacific Fleet-----	1
Commander, Naval Air Force:	
U.S. Atlantic Fleet-----	1
U.S. Pacific Fleet-----	1
Commander, Amphibious Force:	
U.S. Atlantic Fleet-----	1
U.S. Pacific Fleet-----	1
Commander, Cruiser-Destroyer Force:	
U.S. Atlantic Fleet-----	1
U.S. Pacific Fleet-----	1
Commander, Submarine Force:	
U.S. Atlantic Fleet-----	1
U.S. Pacific Fleet-----	1
Commander, Service Force:	
U.S. Atlantic Fleet-----	1
U.S. Pacific Fleet-----	1
Commander, Mine Warfare Force, U.S. Navy-----	1
Commandant and Assistant Commandant of the Marine Corps-----	2
Chief of Staff Marine Corps-----	1
Deputy Chiefs of Staff Marine Corps:	
Manpower-----	1
Plans and Programs-----	1
Research, Development and Studies-----	1
Air-----	1
Assistant Chiefs of Staff Marine Corps-----	4
Quartermaster General, Marine Corps-----	1
Commanding General, Marine Corps Education and Development Command, Quantico, Va-----	1
Commanding Generals:	
Fleet Marine Force, Atlantic-----	1
Fleet Marine Force, Pacific-----	1

## DEPARTMENT OF THE AIR FORCE

(110)

Secretary and Under Secretary .....	2
Assistant Secretaries .....	4
General Counsel .....	1
Director of Space Systems .....	1
Chief and Vice Chief of Staff .....	2
Assistant Vice Chief of Staff .....	1
Deputy Chiefs of Staff:	
Personnel .....	1
Programs and Resources .....	1
Plans and Operations .....	1
Assistant, Plans and Operations .....	1
Research and Development .....	1
Assistant Research and Development .....	1
Systems and Logistics .....	1
Assistant, Systems and Logistics .....	1
The Inspector General .....	1
Assistant Chiefs of Staff:	
Intelligence .....	1
Studies and Analysis .....	1
Aerospace Defense Command:	
Commander and Vice Commander .....	2
Chief of Staff .....	1
Commanders, Air Division .....	6
Commander, 14 Aerospace Force .....	1
Commander, Air Defense Weapons Center .....	1
U.S. Air Forces in Europe:	
Commander in Chief, Vice Commander in Chief .....	2
Chief of Staff .....	1
Commanders, Air Forces (3, 16, 17) .....	3
U.S. Air Force Southern Command:	
Commander and Vice Commander .....	2
Chief of Staff .....	1
Commander, 24th Operations Wing .....	1
Pacific Air Force:	
Commander in Chief .....	1
Vice Commander in Chief .....	1
Chief of Staff .....	1
Commanders, Air Forces (5, 7, 13) .....	3
Commander, 326 Air Division .....	1
Commander, 6486 Air Base Wing .....	1
Alaskan Air Command:	
Commander and Vice Commander .....	2
Chief of Staff .....	1
Military Airlift Command:	
Commander and Vice Commander .....	2
Tactical Air Command:	
Commander and Vice Commander .....	2
Chief of Staff .....	1
Commanders, Air Forces (9, 12, 19) .....	3
Commander, USAF Special Operations Force .....	1
Commander, Tactical Air Warfare Center .....	1
Commander, Tactical Fighter Weapons Center .....	1

<b>Air Force Systems Command:</b>	
Commander and Vice Commander.....	2
Chief of Staff.....	1
Commanders:	
Air Force Special Weapons Center.....	1
Vice Commander.....	1
Foreign Technology Division.....	1
Vice Commander.....	1
Rome Air Development Center.....	1
Vice Commander.....	1
Space and Missile Systems Organization.....	1
Vice Commander.....	1
Deputy for Satellite Programs.....	1
Electronic Systems Division.....	1
Vice Commander.....	1
Aeronautical Systems Division.....	1
Vice Commander.....	1
Air Force Avionics Laboratory.....	1
Aero Propulsion Laboratory.....	1
Flight Dynamics Laboratory.....	1
Materiel Laboratory.....	1
Aerospace Research Laboratory.....	1
Weapons Laboratory.....	1
Vice Commander.....	1
Cambridge Research Laboratory.....	1
Commander, Air Force Reserve.....	1
<b>Air Force Communications Service:</b>	
Commander and Vice Commander.....	2
Commanders, Communications Areas:	
European.....	1
Pacific.....	1
Tactical.....	1
Southern.....	1
Northern.....	1
Commander, Alaskan Communications Region.....	1
Commander, 1978 Communications Group.....	1
Commander, 3 Mobile Communications Group.....	1
<b>Air Force Logistics Command:</b>	
Commander and Vice Commander.....	2
Chief of Staff.....	1
Commanders, Air Materiel Areas (Oklahoma, Ogden, San Antonio, Sacramento, Warner Robins).....	5
<b>U.S. Air Force Security Service:</b>	
Commander and Vice Commander.....	2

§ 159 1500-1—Appendix B—Equivalent Foreign Security Classifications.

Country	TOP SECRET	SECRET	CONFIDENTIAL	
Argentina	SECRETO/SECRETO	SECRETO	CONFIDENTIAL	
Australia	TOP SECRET	SECRET	CONFIDENTIAL	
Austria	STRENG GEHEIM	GEHEIM	VERTRAULICH	TOP FÜR DEN BEINZUGERATUNG
Belgium (French)	TRÈS SECRET	SECRET	CONFIDENTIEL	DIFFUSION RESTREINTE
Belgium (Dutch)	ZEER GEHEIM	GEHEIM	VERTROUWELIJK	BEPERKT VERSpreiden
Bolivia	SECRETO/SECRETO or TOP SECRET	SECRETO	CONFIDENTIAL	
Brazil	ULTRA SECRETO	SECRETO	CONFIDENTIAL	RESERVADO
Cameroon	TRÈS SECRET	SECRET	SECRET/CONFIDENTIAL	
Canada	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Chile	SECRETO	SECRETO	RESERVADO	RESERVADO
Colombia (two systems)	TOP SECRET SECRETO/SECRETO RESERVADO	SECRETO SECRETO	CONFIDENTIAL RESERVADO	CONFIDENTIAL RESERVADO
Costa Rica	ALTO SECRETO	SECRETO	CONFIDENTIAL	
Czechoslovakia	VELIKÉ ZASLEZENÍ	ZASLEZENÍ	POUSTEJNOST	VELIKÉ ZASLEZENÍ TOP SECRET
Denmark	TOP SECRET	SECRET	CONFIDENTIAL	RESERVADO
France	SECRETO	SECRET	CONFIDENTIAL	RESERVADO
Germany	SECRETO	SECRET	CONFIDENTIAL	RESERVADO
Ghana	TOP SECRET	SECRET	CONFIDENTIAL	RESERVADO
Greece	SECRETO	SECRET	CONFIDENTIAL	RESERVADO
Guatemala	SECRETO	SECRET	CONFIDENTIAL	RESERVADO
Haiti	SECRETO	SECRET	CONFIDENTIAL	RESERVADO
Honduras	SECRETO	SECRET	CONFIDENTIAL	RESERVADO
Hong Kong	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Hungary	SECRETO	SECRET	CONFIDENTIAL	RESERVADO
India	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Indonesia	SEKRET PAKSIASIA	PAKSIASIA	KEPER JAJAAN	TERBATAS
Iran	SEKRET SEKRET محرمانه	SEKRET محرمانه	SEKRET MAHMANEH محرمانه	MAHMANEH محرمانه
Iraq	SEKRET (Absolutely secret)	SEKRET (Secret)	SEKRET محرمانه	MAHMANEH (Limited)

Country	TOP SECRET	SECRET	CONFIDENTIAL	
United States	TOP SECRET AT-SICPIDEACH	SECRET SICPIDEACH	CONFIDENTIAL RUMDA	RESTRICTED SPIANTA
Israel	SEKREI BEYOTER סודי ביותר	SEKREI סודי	SHAMUR שמור	MUGBAL מגבל
Italy	SEGRETISSIMO	SEGRETO	RISERVATISSIMO	RISERVATO
Japan	KAKUSEI 極秘	COMMI 極密	HE 秘	TOP SECRET 取扱注意 EUGAHI 部外秘
Iran	مکتوم جدا	محرر	مکتوم	محدود
Korea	극비밀 TOP SECRET	중비밀 TOP SECRET	중비밀 SAM KUP SECRET	
Lebanon	TOP SECRET	SECRET	SECRET/CONFIDENTIAL	DIFFUSION RESTREINTE
Malaysia	TOP SECRET	SECRET	CONFIDENTIAL	
Netherlands	TOP SECRET	GEHEIM	CONFIDENTIAL or VERTROUWELIJK	DIENSTGEHEIM
New Zealand	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Nicaragua	ALTO SEGRETO	SEGRETO	CONFIDENTIAL	RESERVADO
Norway	STRENGT BEHOLDT	BEHOLDT	FORTROLIG	
Pakistan	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Paraguay	ALTO SEGRETO	SEGRETO	CONFIDENTIAL	RESERVADO

Country	TOP SECRET	SECRET	CONFIDENTIAL	
Panama	EXTRASEGRETO SECRETO	SEGRETO	RESERVADO	CONFIDENTIAL
Philippines	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Portugal	MUITO SEGRETO	SEGRETO	CONFIDENTIAL	RESERVADO
Spain	MÁXIMO SEGRETO	SEGRETO	CONFIDENTIAL	DIFFUSION LIMITADA
Sweden (Red Borders)	TOP SECRET	SECRET	CONFIDENTIAL	
Switzerland	(Three languages. TOP SECRET has a registration number to distinguish from SECRET and CONFIDENTIAL.)			
French	SECRET	SECRET	SECRET	RESERVE A L'USAGE EXCLUSIVO DU SERVICE
German	STRENG GEHEIM	GEHEIM	VERTRAULICH	NUR FÜR DIENST- LICHEN GEBRAUCH
Italian	SEGRETO	SEGRETO	SEGRETO	AD ESCLUSIVO USO DI SERVIZIO
Taiwan	絕密機密	極密	機密	密
Thailand	LUB WT SOOD สอด	LUB MAK สอด	LUB สด	POK PID สด
Turkey	ÖK GİZLİ	GİZLİ	ÖZEL	HİSSETE GİZLİ
Union of South Africa	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
English	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Afrikaans	UITERS GEHEIM	GEHEIM	VERTROUWELIJK	BEHEERK
United Arab Republic (Secret)	محرر بلقوة TOP SECRET	محرر جدا VERY SECRET	محرر SECRET	محمور OFFICIAL



Country	TOP SECRET	SECRET	CONFIDENTIAL	
United Kingdom	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Uruguay	SECRETO	SECRETO	CONFIDENTIAL	RESERVADO
USSR	СЕКРЕТНО. СЕКРЕТНО	СЕКРЕТНО	НЕ ПОДЛЕЖАЮЩ ОТКАЗАННО	НЕА СЪВЕЩЕНОТО ПОДЪБОЖАННО
Viet Nam				
French	TRÈS SECRET	SECRET	CONFIDENTIEL	CONFIDENTIEL
Vietnamese	TOI-MŨI	SECRET	KIM	TU MŨI

NOTE: In all instances foreign security classification systems are not exactly parallel to the United States system and exact equivalent classifications cannot be stated. The classifications given above represent the nearest comparable designations which are used to signify degrees of protection and control similar to those prescribed for the equivalent United States classifications.

\* Pursuant to advice received from the French Government, effective May 1, 1967, all French material marked "SECRET-DEFENSE" is to be treated in the manner normally applied to material classified at the TOP SECRET level. The French classification "SECRET-DEFENSE" is stated to be equivalent to "TOP SECRET" and "SECRET" and is to be afforded the protection equal to that provided by the "highest security classification used by foreign and allied systems." There will be no French classification equivalent to US SECRET for material created after May 1, 1967. No changes are necessary with respect to currently held French material marked, TRÈS SECRET or SECRET.

### § 159.1500-2 Appendix C—General Accounting Office Officials Authorized To Certify Security Clearances (see § 159.700-6(c)).

The Comptroller General, his Deputy, and Assistants.  
 The General Counsel and Deputy General Counsel.  
 The Director and Deputy Director, Office of Personnel Management.  
 The Director and Deputy Director, Office of Policy.  
 The Directors, Deputy Directors, Associate Directors, and Assistant Directors of the following Divisions:  
 General Government Resources and Economic Development.  
 Resources and Economic Development.  
 Manpower and Welfare.  
 International.  
 Transportation and Claims.  
 Procurement and Systems Acquisition.  
 Federal Personnel and Compensation.  
 Logistics and Communications.  
 Financial and General Management Studies.

#### Regional Managers:

Atlanta, Ga.; Boston, Mass.; Chicago, Ill.; Cincinnati, Ohio; Dallas, Tex.; Denver, Colo.; Detroit, Mich.; Kansas City, Mo.; Los Angeles, Calif.; New York, N.Y.; Philadelphia, Pa.; San Francisco, Calif.; and Washington, D.C.

### § 159.1500-3 Appendix D—Instructions Governing Use of Code Words, Nicknames, and Exercise Terms (see § 159.701-10).

#### 1. Definitions.

a. *Using component.* The DOD component to which a code word is allocated for use, and which assigns to the word a classified meaning, or which originates nicknames and exercise terms using the procedure established by the Joint Chiefs of Staff.

b. *Code word.* Word selected from those listed in Joint

Army, Navy, Air Force Publication (JANAP) 299 and subsequent volumes, and assigned a classified meaning by appropriate authority to insure proper security concerning intentions, and to safeguard information pertaining to actual, real world military plans or operations classified as Confidential or higher. A code word shall not be assigned to test, drill or exercise activities. A code word is placed in one of three categories:

(1) *Available*—Allocated to the using component. Available code words individually will be unclassified until placed in the active category.

(2) *Active*—Assigned a classified meaning and current.

(3) *Canceled*—Formerly active, but discontinued due to compromise, suspected compromise, cessation or completion of the operation to which the code word pertained. Canceled code words individually will be unclassified and remain so until returned to the active category.

c. *Nickname*. A combination of two separate unclassified words which is assigned an unclassified meaning and is employed only for unclassified administrative, morale, or public information purposes.

d. *Exercise term*. A combination of two unclassified words used exclusively to designate a test, drill, or exercise. An exercise term is employed to preclude the possibility of confusing exercise directions with actual operations directives.

## 2. *Policy and procedure*.

a. *Code words*. The Joint Chiefs of Staff are responsible for allocating words or blocks of code words from JANAP 299 to DOD components. DOD components may request allocation of such code words as required and may reallocate available code words within their organizations, in accordance with individual policies and procedure, subject to applicable rules set forth herein.

(1) A permanent record of all code words shall be maintained by the Joint Chiefs of Staff.

(2) The using component shall account for available code words and maintain a record of each active code word. Upon being canceled, the using component shall maintain the record for 2 years; thence the record of each code word may be disposed of in accordance with current practices, and the code word returned to the available inventory.

## b. *Nicknames*.

(1) Nicknames may be assigned to actual, real world events, projects, movement of forces, or other nonexercise activities involving elements of information of any classification category, but the nickname, the description or meaning it represents, and the relationship of the nickname and its meaning must be unclassified. A nickname is not designed to achieve a security objective.

(2) Nicknames, improperly selected, can be counterpro-

ductive. A nickname must be chosen with sufficient care to insure that it does not:

(a) Express a degree of bellicosity inconsistent with traditional American ideals or current foreign policy;

(b) Convey connotations offensive to good taste or derogatory to a particular group, sect, or creed; or,

(c) Convey connotations offensive to our allies or other Free World Nations.

(3) The following shall not be used as nicknames:

(a) Any two-word combination voice call sign found in JANAP 119 or Allied Communications Publication (ACP) 119. (However, single words in JANAP 119 or ACP 119 may be used as part of a nickname if the first word of the nickname does not appear in JANAP 299 and subsequent volumes.)

(b) Combination of words including word "project," "exercise," or "operation."

(c) Words which may be used correctly either as a single word or as two words, such as "moonlight."

(d) Exotic words, trite expressions, or well-known commercial trademarks.

(4) The Joint Chiefs of Staff shall:

(a) Establish a procedure by which nicknames may be authorized for use by DOD components.

(b) Prescribe a method for the using components to report nicknames used.

(5) The Heads of DOD components shall:

(a) Establish controls within their organizations for the assignment of nicknames authorized under subparagraph (4)

(a) above.

(b) Under the procedures established, advise the Joint Chiefs of Staff of nicknames as they are assigned.

#### *c. Exercise term.*

(1) Exercise terms may be assigned only to tests, drills, or exercises for the purpose of emphasizing that the event is a test, drill, or exercise and not an actual real world operation. The exercise term, the description or meaning it represents, and the relationship of the exercise term and its meaning can be classified or unclassified: A classified exercise term is designed to simulate actual use of DOD code words and must be employed using identical security procedures throughout the planning, preparation and execution of the test, drill, or exercise to insure realism.

(2) Selection of exercise terms will follow the same guidance as contained in paragraphs 2.b (2) and (3) above.

(3) The Joint Chiefs of Staff shall:

(a) Establish a procedure by which exercise terms may be authorized for use by DOD components.

(b) Prescribe a method for the using components to report exercise terms used.

(4) The heads of DOD components shall:

(a) Establish controls within their organizations for the assignment of exercise terms authorized under subparagraph (3) above.

(b) Under the procedures established, advise the Joint Chiefs of Staff of exercise terms as they are assigned.

3. *Assignment of classified meanings to code words.*

a. The DOD component responsible for the development of a plan or the execution of an operation shall be responsible for determining whether to assign a code word.

b. Code words shall be activated for the following purposes only:

(1) To designate a classified military plan or operation;

(2) To designate classified geographic locations in conjunction with plans or operations referred to in (1) above; or,

(3) To conceal intentions in discussions and messages or other documents pertaining to plans, operations, or geographic locations referred to in (1) and (2) above.

c. The using component shall assign to a code word a specific meaning classified Top Secret, Secret, or Confidential, commensurate with military security requirements. Code words shall not be used to cover unclassified meanings. The assigned meaning need not in all cases be classified as high as the classification assigned to the plan or operation as a whole.

d. Code words shall be selected by each using component in such manner that the word used does not suggest the nature of its meaning.

e. A code word shall not be used repeatedly for similar purposes; i.e., if the initial phase of an operation is designated "Meaning," succeeding phases should not be designated "Meaning II" and "Meaning III," but should have different code words.

f. Each DOD component shall establish policies and procedures for the control and assignment of classified meanings to code words, subject to applicable rules set forth herein.

4. *Notice of assignment, dissemination, and cancellation of code words and meanings.*

a. The using component shall promptly notify the Joint Chiefs of Staff when a code word is made active, indicating the word, and its classification. Similar notice shall be made when any changes occur, such as the substitution of a new word for one previously placed in use.

b. The using component is responsible for further dissemination of active code words and meanings to all concerned activities, to include classification of each.

c. The using component is responsible for notifying the Joint Chiefs of Staff of canceled code words. This cancellation report is considered final action, and no further report-

ing or accounting of the status of the canceled code word will be required.

5. *Classification and downgrading instructions.*

a. During the development of a plan, or the planning of an operation by the headquarters of the using component, the code word and its meaning shall have the same classification. When dissemination of the plan to other DOD components or to subordinate echelons of the using component is required, the using component may downgrade the code words assigned below the classification assigned to their meanings in order to facilitate additional planning, implementation, and execution by such other components or echelons. To facilitate this planning code words shall not be downgraded below Confidential.

b. A code word which is replaced by another code word due to a compromise or suspected compromise, or for any other reason, shall be canceled, and classified Confidential for a period of 2 years, after which the code word will become Unclassified.

c. When a plan or operation is discontinued or completed, and is not replaced by a similar plan or operation but the meaning cannot be declassified, the code word assigned thereto shall be cancelled and classified Confidential for a period of 2 years, or until the meaning is declassified, whichever is sooner, after which the code word will become Unclassified.

d. In every case, whenever a code word is referred to in documents, the security classification of the code word shall be placed in parentheses immediately following the code word, i.e., "Label (C)."

e. When the meaning of a code word no longer requires a classification, the using component shall declassify the meaning and the code word and return the code word to the available inventory.

6. *Security practices.*

a. The meaning of a code word may be used in a message or other document, together with the code word, only when it is essential to do so. Active code words may be used in correspondence or other documents forwarded to addressees who may or may not have knowledge of the meaning. If the context of a document contains detailed instructions or similar information which indicates the purpose or nature of the related meaning, the active code word shall not be used.

b. In handling correspondence pertaining to active code words, care shall be used to avoid bringing the code words and their meanings together. They should be handled in separate card files, catalogs, indexes, or lists, enveloped separately and dispatched at different times so that they do not travel through mail or courier channels together.

c. Code words shall not be used for addresses, return ad-



addresses, shipping designators, file indicators, call signs, identification signals, or for other similar purposes.

7. All code words formerly categorized as "inactive" or "obsolete" shall be placed in the current canceled category and classified Confidential. Unless otherwise restricted, all code words formerly categorized as "canceled" or "available" shall be individually declassified. All records associated with such code words may be disposed of in accordance with current practices, provided such records have been retained at least 2 years after the code words were placed in the former categories of "inactive," "obsolete," or "canceled."

Department of Defense Directive No. 5230.9 (December 24, 1966):

Subject: Clearance of Department of Defense Public Information

Refs: (a) DoD Directive 5230.9, subject as above, August 17, 1957 (canceled herein)

(b) DepSecDef Multi-DoD Memorandum, "Submission of Proposed Speeches for OSD Clearance," August 10, 1964 (canceled herein)

(c) ASD(PA) Multi-DoD Memorandum, "Local Release of Unclassified Scientific Information," July 16, 1963 (canceled herein)

(d) ASD(PA) Multi-DoD Memorandum, "Appeal Procedures with Respect to the Review of Material Submitted to the Directorate for Security Review," December 4, 1961 (canceled herein)

(e) through (m)—Related Issuances, see Enclosure 1

### *I. Purpose*

This Directive establishes policies and requirements governing, and responsibilities concerning, (a) clearance of Department of Defense information proposed for public release by the Department or its personnel, and (b) writing for publication by DoD personnel.

### *II. Cancellations*

References (a), (b), (c), and (d) are hereby superseded and canceled.

### *III. Applicability*

The provisions of this Directive apply to all offices, agencies, and departments, in the Department of Defense, the Unified and Specified Commands, and their personnel. Although retired personnel and members of the Reserve components not on active duty are not subject to the provisions of this Directive, they may avail themselves of the review service to insure that their proposed information releases do not violate security. For the provisions governing requests by the public for release of unclassified official records see reference (f).

### *IV. Policy*

The American people will be provided with maximum information about DoD activities. Release of information shall be

limited only by restrictions necessary to safeguard information requiring protection in the interest of national security (see reference (e) and the Atomic Energy Act, as amended) and other information, the publication of which is not in the public interest (see reference (f)). Additional policy guidance on the Department's public information responsibilities is set forth in reference (g).

#### *V. Clearance Requirements*

A. Information in any form concerning plans, policies, programs, or operations of the DoD or the national Government proposed for publication or release to the public through any media of public information, whether such information is prepared by DoD personnel as an official or personal enterprise, shall be submitted to the Assistant Secretary of Defense (Public Affairs) for review and clearance prior to release if it meets any of the criteria listed below. Cases of doubt shall be resolved in favor of submission.

1. Information of national interest.
2. Information originated at or proposed for release at the seat of Government.
3. Information which must be submitted under references (h) through (k), and other information that may be questionable from a security or policy standpoint.
4. Information concerning subjects of potential controversy among the military services.
5. Material concerning significant policy within the purview of other agencies of the Federal Government.
6. Other information specifically designated from time to time by the ASD(PA) as requiring clearance at Office of the Secretary of Defense level.

B. Clearance authority for information not specified under subsection V.A., above, may be delegated to the lowest echelon competent to evaluate the content and implications of the information.

1. Specific consideration of such delegation will be given to scientific results of research, development, test and evaluation performed by both in-house and contractor laboratories.

2. When appropriate, commanders of overseas commands may meet the foreign policy aspect of reference (h) by clearing information material having such implications with authoritative Department of State representatives in their areas.

C. A speech requiring review at ASD(PA) level shall be initialed by the speaker to indicate his approval of the text to be submitted for review, and forwarded to the Directorate for Security Review, OASD(PA), in quadruplicate, not less than five (5) working days before the date that clearance is desired. Other material should be submitted in quadruplicate, if feasible, and additional time allowed commensurate with volume and

complexity. The full text of material requiring review including any supplemental audio-visual material shall be submitted, rather than notes or outlines.

#### *VI. Security and Policy Review*

A. Material submitted by DoD personnel in accordance with this Directive shall be cleared for public release only after it has been reviewed for security and for conflict with established DoD and Government policies and programs. Nothing in this Directive shall be deemed to authorize refusal to clear material, otherwise releasable, because its release might tend to reveal administrative error or inefficiency.

B. All DoD components will provide prompt guidance and assistance in the review of material proposed for clearance when called upon by the Directorate for Security Review, OASD (PA). When necessary to expedite review and clearance actions, that Directorate is authorized direct communication with all echelons of the Department of Defense.

#### *VII. Appeal*

A. After material submitted to the Directorate for Security Review is returned to the speaker or author, any changes made by that Directorate may be discussed or appealed by him or a person authorized to represent him with respect to the material involved.

B. Such appeals or discussions should be directed initially to the Director of Security Review through normal clearance channels. If the matter cannot be resolved between the originator or his expressly authorized representative and the Director, the latter will arrange for an appeal to the ASD(PA). Where the matter is not resolved at that level, the ASD(PA) will arrange for further appeals to the Deputy Secretary or Secretary of Defense.

#### *VIII. Writing for Publication*

A. DoD military and civilian personnel may write signed articles for publication, unless such activity (1) conflicts with the public's receipt of prompt and complete information on Government activities through the usual public information media; or (2) is contrary to law; or (3) is inconsistent with proper ethical standards, or otherwise incompatible with the responsibilities of Government personnel (see reference (1)).

B. DoD personnel who write for publication not in connection with their official duties shall insure that such activity is in accord with reference (1) and is not conducted during normal working hours or accomplished with the use of Department of Defense facilities, property, or personnel. Such writers shall not use information from official sources which is not available to outside writers.

C. Key DoD civilian and military officials may author writings dealing with national defense plans, policies, programs, or operations for exclusive publication under their by-lines only

when such material is to be published in official publications of the Department of Defense and other Government agencies, service journals, house organs, recognized scientific and professional journals, and encyclopedias.

1. This policy applies to all civilians of a super-grade or higher, all military officers of general or flag rank, and civilian or military personnel of lesser grade or rank whose official assignments are of unusual prominence or authority.

2. In instances in which it is clear that a significant benefit will accrue to the national interest through general-circulation publication of material by-lined by a key DoD official, a request and justification for an exception to the by-line policy may be submitted to the ASD(PA) through established information channels. ASD(PA) approval must be obtained before any commitment is made.

D. DoD personnel shall make no commitments to furnish manuscripts on subjects indicated in subsection V.A., above, to non-DoD publications, including date of delivery, until the manuscripts have been cleared or ASD(PA) approval for commitment has been obtained. Manuscripts must receive final clearance before submission to such publications.

#### *IX. Effective Date and Implementation*

A. This Directive is effective immediately.

B. Within ninety (90) days, Heads of offices, agencies and departments in the Department of Defense and the Commanders of the Unified and Specified Commands shall submit to the ASD(PA) two (2) copies of proposed implementing documents for approval prior to publication. Two (2) copies of each approved document shall be forwarded to the ASD(PA) no later than thirty (30) days after publication.

#### REFERENCES (E) THROUGH (M)

- Refs: (e) DoD Directive 5200.1, "Safeguarding Official Information in the Interests of the Defense of the United States," July 8, 1957
- (f) DoD Directive 5200.6, "Policy Governing the Custody, Use and Preservation of DoD Official Information Which Requires Protection in the Public Interest," March 22, 1957
- (g) DoD Directive 5230.13, "Principles of Public Information Policy," May 31, 1961
- (h) DoD Directive C-5230.3, "Public Statements on Foreign and Military Policy and on Certain Weapons (U)," May 21, 1952
- (i) DoD Directive 5230.4, "Release of Information on Atomic Energy, Guided Missiles and New Weapons," November 26, 1952
- (j) DoD Directive S-5400.1, "Policy on Chemical, Biological, and Radiological Warfare (U)," November 28, 1951

- (k) DoD Directive S-5400.2, "Policy on Atomic Energy, Guided Missiles and New Weapons (U)," September 22, 1952
- (l) DoD Directive 5500.7, "Standards of Conduct," March 22, 1966
- (m) DoD Directive 5105.35, "Responsibilities of Unified and Specified Commands in Public Affairs Matters," May 7, 1965

Executive Order 11633 of December 7, 1971 (36 FR 23198)—*Security Clearance Program for United States Citizens Employed Directly by the North Atlantic Treaty Organization, the South-East Asia Treaty Organization, and the Central Treaty Organization:*

The United States now participates in the activities of the North Atlantic Treaty Organization (NATO), the South-East Asia Treaty Organization (SEATO), and the Central Treaty Organization (CENTO). The security regulations of these three treaty organizations provide that each participating nation shall be responsible for the security screening and security clearance of its own citizens before they are authorized access to the Organization's TOP SECRET, SECRET, or CONFIDENTIAL information. There is no existing program, however, under which United States civilians who are hired directly by these organizations can be screened and cleared for access to such Organization's TOP SECRET, SECRET, or CONFIDENTIAL information while so employed. It is, of course, in the interest of the United States that United States citizens who participate in the activities of NATO, SEATO, and CENTO as direct hire employees of the civil or military agencies of those organizations be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. At the same time, it is a fundamental principle of our Government to protect against unreasonable or unwarranted encroachment on the freedom and privacy of individuals.

I have determined that the provisions and procedures prescribed by this Order are necessary to assure the preservation of the integrity of the classified information of NATO, SEATO, and CENTO, and to protect the national interest. I have also determined that these provisions and procedures recognize the rights of individuals affected thereby and provide maximum possible safeguards to protect such rights.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, and as Commander-in-Chief of the Armed Forces of the United States, it is ordered as follows:

SECTION 1. The Secretary of Defense shall establish a program and, by regulation, shall prescribe such specific requirements, restrictions, and other safeguards as he considers necessary for the administration of procedures whereby "Certificates of Security Clearance" for the United States citizens directly employed by civil or military agencies of NATO, SEATO, or CENTO may be provided to these international organizations when they so request.



Such program shall also provide for the denial, revocation, or suspension of such "Certificates."

SEC. 2. Subject to the provisions of applicable international agreements, the procedures established by the Secretary of Defense shall, insofar as is practical, be similar to those established by him pursuant to the authority vested in him by Executive Order No. 10865 of February 20, 1960, as amended.

SEC. 3. The substance of the criteria, safeguards, and procedures provided in Sections 2, 3, 4, 5, 6, 7, and 9 of Executive Order No. 10865, as amended, shall be incorporated in the regulations of the Secretary of Defense governing the program established hereunder.

SEC. 4. Any authority vested in the Secretary of Defense by this Order may be delegated to the Deputy Secretary of Defense or an Assistant Secretary of Defense.

### FREEDOM OF INFORMATION ACT

Act of September 6, 1966 (80 Stat. 383) as amended by Act of June 5, 1967 (81 Stat. 54 § 1); 5 U.S.C. 552—*Public Information; agency rules, opinions, orders, records, and proceedings*:

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the FEDERAL REGISTER for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the FEDERAL REGISTER and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the *FEDERAL REGISTER*; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter *de novo* and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(4) Each agency having more than one member shall main-

tain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(b) This section does not apply to matters that are—

(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

\* \* \* \* \*

## INTERNAL SECURITY DIVISION IN DEPARTMENT OF JUSTICE <sup>58</sup>

### NON-COMMUNIST OATH—NATURALIZATION OF FORMER CITIZENS

Act of August 16, 1951 (65 Stat. 191, c. 321, § 1) as amended by Act of June 27, 1952 (66 Stat. 246 § 402j); 8 U.S.C. 1435 note—*Naturalization of former United States citizens who voted in Italian Elections; non-Communist Oath:*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,* That a person who, while a citizen of the United States, has lost citizenship of the United States solely by reason of having voted in a political election or plebiscite held in Italy between January 1, 1946, and April 18, 1948, inclusive, and who has not subsequent to such voting committed any act which, had he remained a citizen, would have operated to expatriate him, may be naturalized by taking, prior to two years from the enactment of this Act [June 27, 1952], before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421 (a) of this title], or before any diplomatic or consular officer of the United States abroad, the oath required by section 337 of the Immigration and Nationality Act [section 1448 of this title]. Certified copies of such oath shall be sent by such diplomatic or consular officer or such court to the Department of State and to the Department of Justice. Such person shall have, from and after naturalization under this section, the same citizenship status as that which existed immediately prior to its loss: *Provided,* That no such person shall be eligible to take the oath required by section 337 of the Immigration and Nationality Act [section 1448 of this title] unless he shall first take an oath before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act [section 1421 (a) of this title], or before any diplomatic or consular officer of the United States abroad, that he has done nothing to promote the cause of communism. The illegal or fraudulent procurement of naturalization under this amendment shall be subject to cancellation in the same manner as provided in section 340 of the Immigration and Nationality Act [section 1451 of this title].

<sup>58</sup> Functions and duties of the Internal Security Division were transferred to the Criminal Division of the Justice Department. The transfer, which was announced in a Department news release dated March 22, 1973, effectively made the Internal Security Division a section of the Criminal Division, a status it had before it was established as a separate division in 1954. See, 38 FR 8152 (March 24, 1973).

Act of July 20, 1954 (68 Stat. 495; 8 U.S.C. 1435 note)—*Naturalization of former United States citizens who voted in Japanese election; non-Communist oath:*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a person who has lost United States citizenship solely by reason of having voted in any political election or plebiscite held in Japan between September 2, 1945, and April 27, 1952, inclusive, and who has not, subsequent to such voting, committed any act which, had he remained a citizen, would have operated to expatriate him, and is not otherwise disqualified from becoming a citizen by reason of section 313 or 314, or the third sentence of section 318 of the Immigration and Nationality Act, may be naturalized by taking, prior to two years after the date of the enactment of this Act, before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act or before any diplomatic or consular officer of the United States abroad, the applicable oath prescribed by section 337 of such Act. Certified copies of such oath shall be sent by such court or such diplomatic or consular officer to the Department of State and to the Department of Justice. Such oath of allegiance shall be entered in the records of the appropriate naturalization court, embassy, legation, or consulate, and upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the naturalization court, embassy, legation, or consulate, shall be delivered to such person at a cost not exceeding \$5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States. Any such person shall have, from and after naturalization under this Act, the same citizenship status as that which existed immediately prior to its loss: *Provided*, That no such person shall be eligible to take the oath prescribed by section 337 of the Immigration and Nationality Act, unless he shall first take an oath before any naturalization court specified in subsection (a) of section 310 of the Immigration and Nationality Act, or before any diplomatic or consular officer of the United States abroad, that he has done nothing to promote the cause of communism. Naturalization procured under this Act shall be subject to revocation as provided in section 340 of the Immigration and Nationality Act, and subsection (f) of that section shall apply to any person claiming United States citizenship through the naturalization of an individual under this Act."

#### REGISTRATION OF COMMUNIST-OWNED PRINTING PRESSES <sup>59</sup>

##### IMMUNITY OF WITNESSES

Act of October 15, 1970 (84 Stat. 926; 18 U.S.C. 6002, 6005)—*Witnesses before Congress, immunity:*

<sup>59</sup> Act of July 29, 1954 (68 Stat. 586; 50 U.S.C.(d) (6)), captioned *Communist organization registration, printing presses* was repealed by Act of January 2, 1968 (81 Stat. 766, § 5).

SEC. 6002. IMMUNITY GENERALLY.—Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to—

- (1) a court or grand jury of the United States,
- (2) an agency of the United States, or
- (3) either House of Congress, a joint committee of the two

Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order issued under this part, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

SEC. 6005. CONGRESSIONAL PROCEEDINGS.—(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before either House of Congress, or any committee, or any subcommittee of either House, or any joint committee of the two Houses, a United States district court shall issue, in accordance with subsection (b) of this section, upon the request of a duly authorized representative of the House of Congress or the committee concerned, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this part.

(b) Before issuing an order under subsection (a) of this section, a United States district court shall find that—

(1) in the case of a proceeding before either House of Congress, the request for such an order has been approved by an affirmative vote of a majority of the Members present of that House;

(2) in the case of a proceeding before a committee or a subcommittee of either House of Congress or a joint committee of both Houses, the request for such an order has been approved by an affirmative vote of two-thirds of the members of the full committee; and

(3) ten days or more prior to the day on which the request for such an order was made, the Attorney General **was served with notice** of an intention to request the order

(c) Upon application of the Attorney General, the United States district court shall defer the issuance of any order under subsection (a) of this section for such period; not longer than twenty days from the date of the request for such order, as the Attorney General may specify.



## HARBORING OF CRIMINALS

Act of August 20, 1954 (68 Stat. 747 § 3(a); 18 U.S.C. 1071)—*Concealing of persons from arrest, increase of penalties:*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1071 of title 18, United States Code, is amended to read as follows:

Whoever harbors or conceals any person for whose arrest a warrant or process has been issued under the provisions of any law of the United States, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for the apprehension of such person, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; except that if the warrant or process issued on a charge of felony, or after conviction of such person of any offense, the punishment shall be a fine of not more than \$5,000, or imprisonment for not more than five years, or both.

## FAILURE TO APPEAR

Act of June 22, 1966 (80 Stat. 216; 18 U.S.C. 3150, 3151)—*Punishment of persons who jump bail:*

SEC. 3150. PENALTIES FOR FAILURE TO APPEAR.—Whoever, having been released pursuant to this chapter, willfully fails to appear before any court or judicial officer as required, shall, subject to the provisions of the Federal Rules of Criminal Procedure, incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall, (1) if he was released in connection with a charge of felony, or while awaiting sentence or pending appeal or certiorari after conviction of any offense, be fined not more than \$5,000 or imprisoned not more than five years, or both, or (2) if he was released in connection with a charge of misdemeanor, be fined not more than the maximum provided for such misdemeanor or imprisoned for not more than one year, or both, or (3) if he was released for appearance as a material witness, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

SEC. 3151. CONTEMPT.—Nothing in this chapter shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.

## COMMUNIST CONTROL ACT OF 1954

Act of August 24, 1954 (68 Stat. 775), as last amended by Act of January 2, 1968 (81 Stat. 765); 50 U.S.C. 841-844—*Communist Control Act of 1954:*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Communist Control Act of 1954."

## FINDINGS OF FACT

SEC. 2. The Congress hereby finds and declares that the Communist Party of the United States, although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the Government of the United States. It constitutes an authoritarian dictatorship within a republic, demanding for itself the rights and privileges accorded to political parties, but denying to all others the liberties guaranteed by the Constitution. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval and disapproval the policies and programs of the Communist Party are secretly prescribed for it by the foreign leaders of the world Communist movement. Its members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence. Holding that doctrine, its role as the agency of a hostile foreign power renders its existence a clear present and continuing danger to the security of the United States. It is the means whereby individuals are seduced into the service of the world Communist movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed.

## PROSCRIBED ORGANIZATIONS

SEC. 3. The Communist Party of the United States, or any successors of such party regardless of the assumed name, whose object or purpose is to overthrow the Government of the United States, or the government of any State, Territory, District, or possession thereof, or the government of any political subdivision therein by force and violence, are not entitled to any of the rights, privileges, and immunities attendant upon legal bodies created under the jurisdiction of the laws of the United States or any political subdivision thereof; and whatever rights, privi-

leges, and immunities which have heretofore been granted to said party or any subsidiary organization by reason of the laws of the United States or any political subdivision thereof, are hereby terminated: *Provided, however,* That nothing in this section shall be construed as amending the Internal Security Act of 1950, as amended.

SEC. 4. Whoever knowingly and willfully becomes or remains a member of (1) the Communist Party, or (2) any other organization having for one of its purposes or objectives the establishment, control, conduct, seizure, or overthrow of the Government of the United States, or the government of any State or political subdivision thereof, by the use of force or violence, with knowledge of the purpose or objective of such organization shall be subject to all the provisions and penalties of the Internal Security Act of 1950, as amended, as a member of a "Communist-action" organization.

(b) For the purposes of this section, the term "Communist Party" means the organization now known as the Communist Party of the United States of America, the Communist Party of any State or subdivision thereof, and any unit or subdivision of any such organization, whether or not any change is hereafter made in the name thereof.

SEC. 5. In determining membership or participation in the Communist Party or any other organization defined in this Act, or knowledge of the purpose or objective of such party or organization, the jury, under instructions from the court, shall consider evidence, if presented, as to whether the accused person:

(1) Has been listed to his knowledge as a member in any book or any of the lists, records, correspondence, or any other document of the organization;

(2) Has made financial contribution to the organization in dues, assessments, loans, or in any other form;

(3) Has made himself subject to the discipline of the organization in any form whatsoever;

(4) Has executed orders, plans, or directives of any kind of the organization;

(5) Has acted as an agent, courier, messenger, correspondent, organizer, or in any other capacity in behalf of the organization;

(6) Has conferred with officers or other members of the organization in behalf of any plan or enterprise of the organization;

(7) Has been accepted to his knowledge as an officer or member of the organization or as one to be called upon for services by other officers or members of the organization;

(8) Has written, spoken or in any other way communicated by signal, semaphore, sign, or in any other form of communication orders, directives, or plans of the organization;

(9) Has prepared documents, pamphlets, leaflets, books, or any other type of publication in behalf of the objectives and purposes of the organization;

(10) Has mailed, shipped, circulated, distributed, delivered,

or in any other way sent or delivered to others material or propaganda of any kind in behalf of the organization;

(11) Has advised, counseled or in any other way imparted information, suggestions, recommendations to officers or members of the organization or to any one else in behalf of the objectives of the organization;

(12) Has indicated by word, action, conduct, writing or in any other way a willingness to carry out in any manner and to any degree the plans, designs, objectives, or purposes of the organization;

(13) Has in any other way participated in the activities, planning, actions, objectives, or purposes of the organization;

(14) The enumeration of the above subjects of evidence on membership or participation in the Communist Party or any other organization as above defined, shall not limit the inquiry into and consideration of any other subject of evidence on membership and participation as herein stated.

#### SUBVERSIVE ACTIVITIES CONTROL ACT AMENDMENT

SEC. 6. Subsection 5(a)(1) of the Subversive Activities Control Act of 1950 (50 U.S.C. 784) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following: or

(E) to hold office or employment with any labor organization, as that term is defined in section 2(5) of the National Labor Relations Act, as amended (29 U.S.C.), or to represent any employer in any matter or proceeding arising or pending under that Act.

#### COMMUNIST-INFILTRATED ORGANIZATIONS

SEC. 7. (a) Section 3 of the Subversive Activities Control Act of 1950 (50 U.S.C. 782) is amended by inserting, immediately after paragraph (4) thereof, the following new paragraph:

(4A) The term "Communist-infiltrated organization" means any organization in the United States (other than a Communist-action organization or a Communist-front organization) which (A) is substantially directed, dominated, or controlled by an individual or individuals who are, or who within three years have been actively engaged in, giving aid or support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title, and (B) is serving, or within three years has served, as a means for (i) the giving of aid or support to any such organization, government, or movement, or (ii) the impairment of the military strength of the United States or its industrial capacity to furnish logistical or other material support required by its Armed Forces: *Provided, however,* That any labor organization which is an affiliate in good standing of a national federation or other labor organization whose policies and activities have been directed to opposing Communist organizations, any Communist foreign government, or the world Communist move-



ment, shall be presumed prima facie not to be a "Communist-infiltrated organization."

(b) Paragraph (5) of such section is amended to read as follows:

(5) The term "Communist organization" means any Communist-action organization, Communist-front organization, or Communist-infiltrated organization.

(c) Subsections 5(c) and 6(c) of such Act are repealed.

SEC. 8. (a) Section 10 of such Act (50 U.S.C. 789) is amended by inserting, immediately after the words "final order of the Board requiring it to register under section 7", the words "or determining that it is a Communist-infiltrated organization."<sup>60</sup>

(3) to use the United States mails or any means, facility, or instrumentality of interstate or foreign commerce, including but not limited to radio and television broadcasts, to solicit any money, property, thing, or service, unless such solicitation if made orally is preceded by the following statement, and if made in writing or in print is preceded by the following written or printed statement: "This solicitation is made for or on behalf of \_\_\_\_\_," (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist-\_\_\_\_\_organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be). (50 U.S.C. 789 (Supp. III))

(b) Subsections (a) and (b) of section 11 of such Act (50 U.S.C. 790) are amended by inserting immediately preceding the period at the end of each such subsection, the following: "or determining that it is a Communist-infiltrated organization."<sup>61</sup>

<sup>60</sup> Section 10 was amended by Public Law 90-237, § 7; 81 Stat. 766, generally to accord with the change from the organizational registration scheme to Board determinations of subversive organizations. In the opening paragraph, the 1968 amendment substituted "any organization with respect to which there is in effect a final order of the Board determining it to be a Communist organization as defined in paragraph (5) of section 3 of this title" for "any organization which is registered under section 7 of this title, or for any organization with respect to which there is in effect a final order of the Board requiring it to register under said section or determining that it is a Communist-infiltrated organization". Also, the recent amendment inserted the phrase "with knowledge or notice of such final order" following "any person".

In paragraph (1) the 1968 amendment substituted "Disseminated by \_\_\_\_\_" (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist \_\_\_\_\_ organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be) for "with the name of the organization appearing in lieu of the blank: 'Disseminated by \_\_\_\_\_, a Communist organization'."

In paragraph (2) the 1968 amendment substituted "The following program is sponsored by \_\_\_\_\_" (with the name of the organization in lieu of the blank) "an organization determined by final order of the Subversive Activities Control Board to be a Communist \_\_\_\_\_ organization" (setting forth in lieu of the blank whether action, front, or infiltrated, as the case may be) for "with the name of the organization being stated in place of the blank: 'The following program is sponsored by \_\_\_\_\_, a Communist organization'."

Paragraph (3) was added by the 1968 amendment:

<sup>61</sup> Section 11 was amended by Public Law 90-237, § 8; 81 Stat. 767, *supra*, generally to accord with the change from the organizational registration scheme to Board determinations of subversive organizations. Subsection (a) of the 1968 amendment substituted "there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front, or Communist-infiltrated organization" for "(1) such organization is registered under section 786 of this title, or (2) there is in effect a final order of the Board requiring such organization to register under section 7 of this title or determining that it is a Communist-infiltrated organization".

Subsection (b) of the 1968 amendment substituted "section 501 of Title 26" for "section 101 of Title 26" and "there is in effect a final order of the Board determining such organization to be a Communist-action, Communist-front or Communist-infiltrated organization" for "(1) such organization is registered under section 7 of this title, or (2) there is in effect a final order of the Board requiring such organization to register under section 7 of this title or determining that it is a Communist-infiltrated organization".

SEC. 9. (a) Subsection 12(e) of such Act (50 U.S.C. 791) is amended by—

(1) striking out the period at the end thereof and inserting in lieu thereof a semicolon and the word “and”; and

(2) inserting at the end thereof the following new paragraph:

(3) upon any application made under subsection (a) or subsection (b) of section 13A of this title, to determine whether any organization is a Communist-infiltrated organization.<sup>62</sup>

(b) The section caption to section 13 of such Act (50 U.S.C. 792) is amended to read as follows: “REGISTRATION PROCEEDINGS BEFORE THE BOARD.”<sup>63</sup>

SEC. 10. Such Act is amended by inserting, immediately after section 13 thereof, the following new section:

PROCEEDINGS WITH RESPECT TO COMMUNIST-INFILTRATED  
ORGANIZATIONS

SEC. 13A. (a) Whenever the Attorney General has reason to believe that any organization is a Communist-infiltrated organization, he may file with the Board and serve upon such organization a petition for a determination that such organization is a Communist-infiltrated organization. In a proceeding so instituted, two or more affiliated organizations may be named as joint respondents. Whenever any such petition is accompanied by a certificate of the Attorney General to the effect that the proceeding so instituted is one of exceptional public importance, such proceeding shall be set for hearing at the earliest possible time and all proceedings therein before the Board or any court shall be expedited to the greatest practicable extent.<sup>64</sup>

(b) Any organization which has been determined under this section to be a Communist-infiltrated organization may, within six months after such determination, file with the Board and serve upon the Attorney General a petition for a determination that such organization no longer is a Communist-infiltrated organization.

(c) Each such petition shall be verified under oath, and shall contain a statement of the facts relied upon in support thereof. Upon the filing of any such petition, the Board shall serve upon each party to such proceeding a notice specifying the time and place for hearing upon such petition. No such hearing shall be conducted within twenty days after the service of such notice.

<sup>62</sup> Subsection (e) was amended by Public Law 90-237, § 9(a); 81 Stat. 767, *supra*, to substitute “any organization as to which there is in effect a final order of the Board determining such organization to be a Communist-action organization” for “any Communist-action organization registered, or by final order of the Board required to be registered under section 7(a) of this title.”

<sup>63</sup> The catchline was amended by Public Law 90-237, § 10(a); 81 Stat. 768, *supra*, to substitute “Proceedings Before the Board” for “Registration Proceedings Before the Board.” Earlier, the catchline had been amended by Public Law 637, 83rd Congress, 2nd Session, § 9(b), *supra*, to insert the word “Registration.”

<sup>64</sup> Subsection (a) was amended by Public Law 90-237, § 11(1); 81 Stat. 771, *supra*, to add the sentence relating to the effect of the dissolution of an organization subsequent to the filing of any petition.



(d) The provisions of subsections (c) and (d) of section 13 shall apply to hearings conducted under this section, except that upon the failure of any organization named as a party in any petition filed by or duly served upon it pursuant to this section to appear at any hearing upon such petition, the Board may conduct such hearing in the absence of such organization and may enter such order under this section as the Board shall determine to be warranted by evidence presented at such hearing.<sup>65</sup>

(e) In determining whether any organization is a Communist-infiltrated organization, the Board shall consider—

(1) to what extent, if any, the effective management of the affairs of such organization is conducted by one or more individuals who are, or within three years have been, (A) members, agents, or representatives of any Communist organization, and Communist foreign government, or the world Communist movement referred to in section 2 of this title, with knowledge of the nature and purpose thereof, or (B) engaged in giving aid or support to any such organization, government, or movement with knowledge of the nature and purpose thereof: (as amended by 69 Stat. 371, ch. 381)

(2) to what extent, if any, the policies of such organization are, or within three years have been formulated and carried out pursuant to the direction or advice of any member, agent, or representative of any such organization, government, or movement;

(3) to what extent, if any, the personnel and resources of such organization are, or within three years have been, used to further or promote the objectives of any such Communist organization, government, or movement;

(4) to what extent, if any, such organization within three years has received from, or furnished to or for the use of, any such Communist organization, government, or movement any funds or other material assistance;

(5) to what extent, if any, such organization is, or within three years has been, affiliated in any way with any such Communist organization, government, or movement;

(6) to what extent, if any, the affiliation of such organization, or of any individual or individuals who are members thereof or who manage its affairs, with any such Communist organization, government, or movement is concealed from or is not disclosed to the membership of such organization; and

(7) to what extent, if any, such organization or any of its members or managers are, or within three years have been, knowingly engaged—

(A) in any conduct punishable under section 4 or

<sup>65</sup> Subsection (d) was amended by Public Law 90-237, § 11(2): 81 Stat. 771, *supra*, to eliminate the exception at the end of the subsection which authorized the Board to conduct a hearing in the absence of an organization which failed to appear and to enter such order as the Board found warranted by the evidence produced at the hearing.

15 of this Act or under chapter 37, 105, or 115 of title 18 of the United States Code; or

(B) with intent to impair the military strength of the United States or its industrial capacity to furnish logistical or other support required by its armed forces, in any activity resulting in or contributing to any such impairment.

(f) After hearing upon any petition filed under this section, the Board shall (1) make a report in writing in which it shall state its findings as to the facts and its conclusions with respect to the issues presented by such petition, (2) enter its order granting or denying the determination sought by such petition, and (3) serve upon each party to the proceeding a copy of such order. Any order granting any determination on the question whether any organization is a Communist-infiltrated organization shall become final as provided in section 14(b) of this Act.

(g) When any order has been entered by the Board under this section with respect to any labor organization or employer (as these terms are defined by section 2 of the National Labor Relations Act, as amended, and which are organizations within the meaning of section 3 of the Subversive Activities Control Act of 1950), the Board shall serve a true and correct copy of such order upon the National Labor Relations Board and shall publish in the Federal Register a statement of the substance of such order and its effective date.

(h) When there is in effect a final order of the Board determining that any such labor organization is a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, such labor organization shall be ineligible to—

(1) act as representative of any employee within the meaning or for the purposes of section 7 of the National Labor Relations Act, as amended (29 U.S.C. 157);

(2) serve as an exclusive representative of employees of any bargaining unit under section 9 of such Act, as amended (29 U.S.C. 159);

(3) make, or obtain any hearing upon, any charge under section 10 of such Act (29 U.S.C. 160); or

(4) exercise any other right or privilege, or receive any other benefit, substantive or procedural, provided by such Act for labor organizations.

(i) When an order of the Board determining that any such labor organization is a Communist-infiltrated organization has become final, and such labor organization theretofore has been certified under the National Labor Relations Act, as amended, as a representative of employees in any bargaining unit—

(1) a question of representation affecting commerce, within the meaning of section 9(c) of such Act, shall be deemed to exist with respect to such bargaining unit; and

(2) the National Labor Relations Board, upon petition of not less than 20 per centum of the employees in such

bargaining unit or any person or persons acting in their behalf, shall under section 9 of such Act (notwithstanding any limitation of time contained therein) direct elections in such bargaining unit or any subdivision thereof (A) for the purposes, and (B) to determine whether the employees thereof desire to rescind any authority previously granted to such labor organization to enter into any agreement with their employer pursuant to section 8(a)(3)(ii) of such Act.

(j) When there is in effect a final order of the Board determining that any such employer is a Communist-infiltrated organization, such employer shall be ineligible to—

(1) file any petition for an election under section 9 of the National Labor Relations Act, as amended (29 U.S.C. 157), or participate in any proceeding under such section; or

(2) make or obtain any hearing upon any charge under section 10 of such Act (29 U.S.C. 163) ; or

(3) exercise any other right or privilege or receive any other benefit, substantive or procedural, provided by such Act for employers.<sup>65</sup>

SEC. 11. Subsections (a) and (b) of section 14 of such Act (50 U.S.C. 793) are amended by inserting in each subsection, immediately after the words "section 13," a comma and the following: "or subsection (f) of section 13A,".

SEC. 12. If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of the title, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

## MUNITIONS CONTROL

Act of August 26, 1954 (68 Stat. 848 § 414) as last amended by Act of October 18, 1962 (76A Stat. 698 § 5) : 22 U.S.C. 1934—*Munitions Control—Authority of President*:

(a) The President is authorized to control, in furtherance of world peace and the security and foreign policy of the United States, the export and import of arms, ammunition, and implements of war, including technical data relating thereto, other than by a United States Government agency. The President is

<sup>65</sup> Section 14 of Public Law 90 237: 81 Stat. 771, *supra*, with respect to proceedings under sections 13 and 13A, provided that—

(a) In the case of any organization which, by proceedings under section 13(a) of the Subversive Activities Control Act of 1950 completed before the date of enactment of this Act [Jan. 2, 1968] has been finally determined by the Subversive Activities Control Board to be a Communist-action organization or a Communist-front organization and has been ordered to register as a result of such determination, the Board shall forthwith modify its previously issued registration order as may be necessary to conform such order to the provisions of section 13(g) of the Subversive Activities Control Act of 1950, as amended by this Act, shall forthwith include such organization on the record required to be maintained under section 9 of the Subversive Activities Control Act of 1950, as amended by this Act. Nothing in this subsection shall be construed so as to prevent any such organization from filing a petition as provided in subsection (b) of section 13 of the Subversive Activities Control Act of 1950, as amended by this Act.

(b) In the case of any proceeding pending before the Board on the date of enactment of this Act, the Board and the Attorney General are authorized to proceed in accordance with the provisions of the Subversive Activities Control Act of 1950, as amended by this Act. (50 U.S.C. 792 note (Supp. III))

authorized to designate those articles which shall be considered as arms, ammunition, and implements of war, including technical data relating thereto, for the purposes of this section.

*Registration of manufactures, exporters, and importers*

(b) As prescribed in regulations issued under this section, every person who engages in the business of manufacturing, exporting, or importing any arms, ammunition, or implements of war, including technical data relating thereto, designated by the President under subsection (a) of this section shall register with the United States Government agency charged with the administration of this section, and, in addition, shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this chapter or any other foreign assistance program of the United States, whether or not advanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

*Penalties for violations*

(c) Any person who willfully violates any provision of this section or any rule or regulation issued under this section, or who willfully, in a registration or license application, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than \$25,000 or imprisoned not more than two years, or both.

(d) This section applies to and within the Canal Zone.

## ATOMIC ENERGY CONTROL

Act of August 30, 1954 (68 Stat. 919, ch. 1073); *as amended* (42 U.S.C. 2011-2281).

### CONGRESSIONAL DECLARATION OF POLICY

SECTION 1. Atomic energy is capable of application for peaceful as well as military purposes. It is therefore declared to be the policy of the United States that—

(a) the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security; and

(b) the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the

general welfare, increase the standard of living, and strengthen free competition in private enterprise. [42 U.S.C. 2011]

#### CONGRESSIONAL FINDINGS

SEC. 2. The Congress of the United States makes the following findings concerning the development, use, and control of atomic energy:

(a) The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

\* \* \* \* \*

(c) The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

(d) The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

(e) Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

(f) The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this chapter.

(g) Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

\* \* \* \* \*

(i) In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses. [42 U.S.C. 2012]

#### PRODUCTION OF SPECIAL NUCLEAR MATERIAL

SEC. 41. PRODUCTION FACILITIES—OWNERSHIP.—(a) The Commission, as agent of and on behalf of the United States, shall be the exclusive owner of all production facilities other than facilities which (1) are useful in the conduct of research and develop-



ment activities in the fields specified in section 2051 of this title, and do not, in the opinion of the Commission, have a potential production rate adequate to enable the user of such facilities to produce within a reasonable period of time a sufficient quantity of special nuclear material to produce an atomic weapon; or (2) are licensed by the Commission pursuant to section 2133 or 2134 of this title.

#### OPERATION OF COMMISSION'S FACILITIES

(b) The Commission is authorized and directed to produce or to provide for the production of special nuclear material in its own production facilities. To the extent deemed necessary, the commission is authorized to make, or to continue in effect contracts with persons obligating them to produce special nuclear material in facilities owned by the Commission. The Commission is also authorized to enter into research and development contracts authorizing the contractor to produce special nuclear material in facilities owned by the Commission to the extent that the production of such special nuclear material may be incident to the conduct of research and development activities under such contracts. Any contract entered into under this section shall contain provisions (1) prohibiting the contractor from subcontracting any part of the work he is obligated to perform under the contract, except as authorized by the Commission; and (2) obligating the contractor (A) to make such reports pertaining to activities under the contract to the Commission as the Commission may require, (B) to submit to inspection by employees of the Commission of all such activities, and (C) to comply with all safety and security regulations which may be prescribed by the Commission. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 5 of Title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under such contracts.

#### OPERATION OF OTHER FACILITIES

(c) Special nuclear material may be produced in the facilities which under this section are not required to be owned by the Commission. [42 U.S.C. 2061]

#### ACQUISITION OF SPECIAL NUCLEAR MATERIAL

SEC. 55. ACQUISITION OF SPECIAL NUCLEAR MATERIAL; PAYMENTS; JUST COMPENSATION. The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this chapter, to purchase without regard to the limitations in section 2074 of this title or any guaranteed purchase prices established pursuant to section 2076 of this title, and to take, requisition, condemn, or otherwise acquire any special nuclear material or any interest

therein. Any contract of purchase made under this section may be made without regard to the provisions of section 5 of Title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, or condemned under this section. [42 U.S.C. 2075]

#### SOURCE MATERIAL

SEC. 61. The Commission may determine from time to time that other material is source material in addition to those specified in the definition of source material. Before making such determination, the Commission must find that such material is essential to the production of special nuclear material and must find that the determination that such material is source material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Joint Committee and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) before the determination of the Commission may become effective: *Provided, however*, That the Joint Committee, after having received such determination, may by resolution in writing waive the conditions of or all or any portion of such thirty-day period. [42 U.S.C. 2091]

#### ACQUISITION OF SOURCE MATERIAL

SEC. 66. The Commission is authorized and directed, to the extent it deems necessary to effectuate the provisions of this chapter—

(a) to purchase, take, requisition, condemn, or otherwise acquire supplies of source material;

(b) to purchase, condemn, or otherwise acquire any interest in real property containing deposits of source material; and

(c) to purchase, condemn, or otherwise acquire rights to enter upon any real property deemed by the Commission to have possibilities of containing deposits of source material in order to conduct prospecting and exploratory operations for such deposits.

Any purchase made under this section may be made without regard to the provisions of section 5 of Title 41, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advanced payments may be made under contracts for such purposes. The Commission may establish guaranteed prices

for all source material delivered to it within a specified time. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, condemned, or otherwise acquired under this section. [42 U.S.C. 2096]

#### PROHIBITIONS AGAINST ISSUANCE OF LICENSE

SEC. 69. The Commission shall not license any person to transfer or deliver, receive possession of or title to, or import into or export from the United States any source material if, in the opinion of the Commission, the issuance of a license to such person for such purpose would be inimical to the common defense and security or the health and safety of the public. [42 U.S.C.A. 2099]

#### DOMESTIC DISTRIBUTION OF BYPRODUCT MATERIALS—LICENSE

SEC. 81. The Commission is authorized to establish classes of byproduct material and to exempt certain classes or quantities of material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of such material or such kinds of uses or users will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public. [42 U.S.C. 2111]

#### FOREIGN DISTRIBUTION OF BYPRODUCT MATERIAL

SEC. 82. (a) The Commission is authorized to cooperate with any nation by distributing byproduct material, and to distribute byproduct material, pursuant to the terms of an agreement for cooperation to which such nation is party and which is made in accordance with section 2153 of this [Code] Title.

#### DISTRIBUTION TO INDIVIDUALS

(b) The Commission is also authorized to distribute byproduct material to any person outside the United States upon application therefor by such person and demand such charge for such material as would be charged for the material if it were distributed within the United States: *Provided, however,* That the Commission shall not distribute any such material to any person under this section if, in its opinion, such distribution would be inimical to the common defense and security: *And provided further,* That the Commission may require such reports regarding the use of material distributed pursuant to the provisions of this section as it deems necessary.

#### DISTRIBUTOR'S LICENSE

(c) The Commission is authorized to license others to distribute byproduct material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission. [42 U.S.C. § 2112]

## MILITARY APPLICATION OF ATOMIC ENERGY

## AUTHORITY OF COMMISSION

SEC. 91.—(a) The Commission is authorized to—

“(1) conduct experiments and do research and development work in the military application of atomic energy; and

“(2) engage in the production of atomic weapons, or atomic weapons parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year.

## MATERIAL FOR DEPARTMENT OF DEFENSE USE

(b) The President from time to time may direct the Commission (1) to deliver such quantities of special nuclear material or atomic weapons to the Department of Defense for such use as he deems necessary in the interest of national defense, or (2) to authorize the Department of Defense to manufacture, produce, or acquire any atomic weapon or utilization facility for military purposes: *Provided, however,* That such authorization shall not extend to the production of special nuclear material other than that incidental to the operation of such utilization facilities.

SALE, LEASE, OR LOAN TO OTHER NATIONS OF  
MATERIALS FOR MILITARY APPLICATIONS

(c) The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 2077, 2092, or 2111 of this [code] title, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President—

(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness;

(2) utilization facilities for military applications; and

(3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons: *Provided, however,* That the transfer of such material to that nation is necessary to improve its atomic weapons design development or fabrication capability: *And provided further,* That such nation has made substantial progress in the development of atomic weapons.

whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons and atomic weapons systems, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this [code] title: *And provided further,* That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation. [42 U.S.C. 2121]

#### PROHIBITIONS GOVERNING ATOMIC WEAPONS

SEC. 92. It shall be unlawful, except as provided in section 91, for any person to transfer or receive in interstate or foreign commerce, manufacture, produce, transfer, acquire, possess, import or export any atomic weapon. Nothing in this section shall be deemed to modify the provisions of subsection 31(a) or section 101. [42 U.S.C. 2122]

#### ATOMIC ENERGY LICENSES

SEC. 103. COMMERCIAL LICENSES.—d. No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 123, or except under the provisions of section 109. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public. [42 U.S.C. 2133]

SEC. 104. MEDICAL THERAPY AND RESEARCH AND DEVELOPMENT.—d. No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 123 or except under the provisions of section 109. No license may be issued to any corpora-



tion or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public. [42 U.S.C. 2134]

SEC. 108. WAR OR NATIONAL EMERGENCY.—Whenever the Congress declares that a state of war or national emergency exists, the Commission is authorized to suspend any licenses granted under this Act if in its judgment such action is necessary to the common defense and security. The Commission is authorized during such period, if the Commission finds it necessary to the common defense and security, to order the recapture of any special nuclear material distributed, under the provisions of subsection 53a., or to order the operation of any facility licensed under section 103 or 104, and is authorized to order the entry into any plant or facility in order to recapture such material, or to operate such facility. Just compensation shall be paid for any damages caused by the recapture of any special nuclear material or by the operation of any such facilities. [42 U.S.C.A. 2138]

SEC. 109. GENERAL LICENSES: EXPORT LICENSES.—With respect to those utilization and production facilities which are so determined by the Commission pursuant to section 2014(v) (2) or 2014(cc) (2) of this title the Commission may (a) issue general licenses for activities required to be licensed under section 2131 of this title, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security, and (b) issue licenses for the export of such facilities, if the Commission determines in writing that each export will not constitute an unreasonable risk to the common defense and security. [42 U.S.C. 2139]

#### INTERNATIONAL ACTIVITIES

SEC. 121. EFFECT OF INTERNATIONAL ARRANGEMENTS.—Any provisions of this Act or any action of the Commission to the extent and during the time that it conflicts with the provisions of any international arrangement made after the date of enactment of this Act shall be deemed to be of no force or effect. [42 U.S.C. 2151]

SEC. 122. POLICIES CONTAINED IN INTERNATIONAL ARRANGEMENTS.—In the performance of its functions under this Act, the Commission shall give maximum effect to the policies contained in any international arrangement made after the date of enactment of this Act. [42 U.S.C. 2152]

SEC. 123. COOPERATION WITH OTHER NATIONS.—

No cooperation with any nation or regional defense organization pursuant to sections 2073, 2074, 2077, 2094, 2112, 2121, 2133, 2134, or 2164 of this title shall be undertaken until—

## SUBMISSION OF AGREEMENTS TO PRESIDENT

(a) the Commission or, in the case of those agreements for cooperation arranged pursuant to section 2121(c) or 2164(b) of this title which are to be implemented by the Department of Defense, the Department of Defense has submitted to the President the proposed agreement for cooperation, together with its recommendations thereon, which proposed agreement shall include (1) the terms, conditions, duration, nature, and scope of the cooperation; (2) a guaranty by the cooperating party that security safeguards and standards as set forth in the agreement for cooperation will be maintained; (3) except in the case of those agreements for cooperation arranged pursuant to section 2121(c) of this title a guaranty by the cooperating party that any material to be transferred pursuant to such agreement will not be used for atomic weapons, or for research on or development of atomic weapons or for any other military purpose; and (4) a guaranty by the cooperating party that any material or any Restricted Data to be transferred pursuant to the agreement for cooperation will not be transferred to unauthorized persons or beyond the jurisdiction of the cooperating party, except as specified in the agreement for cooperation;

## PRESIDENTIAL APPROVAL AND AUTHORIZATION

(b) the President has approved and authorized the execution of the proposed agreement for cooperation, and has made a determination in writing that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security;

## SUBMISSION TO JOINT COMMITTEE; WAITING PERIOD

(c) the proposed agreement for cooperation, together with the approval and the determination of the President, has been submitted to the Joint Committee and a period of thirty days has elapsed while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) : *Provided, however,* That the Joint Committee, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

## SUBMISSION TO THE CONGRESS

(d) the proposed agreement for cooperation, together with the approval and determination of the President, if arranged pursuant to section 2121(c), 2164(b), or 2164(c) of this title, has been submitted to the Congress and referred to the Joint Committee and a period of sixty days has elapsed while

Congress is in session, but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation: *Provided, however*, That during the Eighty-fifth Congress such period shall be thirty days (in computing such sixty days, or thirty days, as the case may be, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days). [42 U.S.C. 2153]

#### INTERNATIONAL ATOMIC POOL

SEC. 124. The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the nonmilitary applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 54, 57, 64, 82, 103, 104, or 144 a: *Provided, however*, That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 123. [42 U.S.C. 2154]

#### CONTROL OF INFORMATION

SEC. 141. POLICY.—It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

a. Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 144; and

b. The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and enlarge the fund of technical information. [42 U.S.C. 2161]

SEC. 142. CLASSIFICATION AND DECLASSIFICATION OF RESTRICTED DATA.

#### PERIODIC DETERMINATION

(a) The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

#### CONTINUOUS REVIEW

(b) The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for

the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

JOINT DETERMINATION ON ATOMIC WEAPONS; PRESIDENTIAL  
DETERMINATION ON DISAGREEMENT

(c) In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

SAME; REMOVAL FROM RESTRICTED DATA CATEGORY

(d) The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however,* That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with section 2164(b) of this title.

JOINT DETERMINATION ON ATOMIC ENERGY PROGRAMS

(e) The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 403(d) of Title 50 and can be adequately safeguarded as defense information. [42 U.S.C. 2162]

Executive Order 10899 of December 9, 1960 (25 FR 12729)—*Communication of Restricted Data by Central Intelligence Agency*

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.) [this chapter], and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pur-

suant to subsections 144a, b, or c of the Act (42 U.S.C. 2162(a), (b), or (c) [section 2164(a), (b), or (c) of this title], such Restricted Data and data removed from the Restricted Data category under subsection 142d of the Act (42 U.S.C. 2162(d)) [subsection (d) of this section] as is determined

(i) by the President, pursuant to the provisions of the Act, or  
 (ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841 [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

Executive Order 11057 of October 18, 1962 (27 FR 10289)—*Communication of Restricted Data by Department of State*

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.) [this chapter], and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsection 144b of the Act (42 U.S.C. 2164(b)) [section 2164(b) of this title], such Restricted Data and data removed from the Restricted Data category under subsection 142d of the Act (42 U.S.C. 2162(d)) [subsec. (d) of this section] as is determined

(i) by the President, pursuant to the provisions of the Act, or  
 (ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.



SEC. 143. ACCESS TO RESTRICTED DATA.—The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under section 2165(b) and (c) of this title to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however,* That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further,* That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 2165 of this title. [42 U.S.C. 2163]

SEC. 144. INTERNATIONAL COOPERATION — BY COMMISSION.—  
(a) The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

- (1) refining, purification, and subsequent treatment of source material;
- (2) civilian reactor development;
- (3) production of special nuclear material;
- (4) health and safety;
- (5) industrial and other applications of atomic energy for peaceful purposes; and
- (6) research and development relating to the foregoing:

*Provided, however,* That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title, or is undertaken pursuant to an agreement existing on August 30, 1954.

#### BY DEPARTMENT OF DEFENSE

(b) The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

- (1) the development of defense plans;
- (2) the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;

(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and

(4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

EXCHANGE OF INFORMATION CONCERNING ATOMIC WEAPONS;  
RESEARCH, DEVELOPMENT, OR DESIGN, OF MILITARY REACTORS

(c) In addition to the cooperation authorized in subsections (a) and (b) of this section, the President may authorize the Commission with the assistance of the Department of Defense, to cooperate with another nation and—

(1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided,* That communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and

(2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, of military reactors,

whenever the President determines that the proposed cooperation and the communication of the proposed Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

COMMUNICATION OF DATA BY OTHER GOVERNMENTAL AGENCIES

(d) The President may authorize any agency of the United States to communicate in accordance with the terms and conditions of an agreement for cooperation arranged pursuant to subsection (a), (b), or (c) of this section, such Restricted Data as is determined to be transmissible under the agreement for cooperation involved. [42 U.S.C. 2164]

SEC. 145. SECURITY RESTRICTIONS—ON CONTRACTORS AND LICENSEES.—(a) No arrangement shall be made under section 2051

of this title, no contract shall be made or continued in effect under section 2061 of this title, and no license shall be issued under section 2133 or 2134 of this title, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

#### EMPLOYMENT OF PERSONNEL; ACCESS TO RESTRICTED DATA

(b) Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

#### ACCEPTANCE OF INVESTIGATION AND CLEARANCE GRANTED BY OTHER GOVERNMENT AGENCIES

(c) In lieu of the investigation and report to be made by the Civil Service Commission pursuant to subsection (b) of this section, the Commission may accept an investigation and report on the character, associations, and loyalty of an individual made by another Government agency which conducts personnel security investigations, provided that a security clearance has been granted to such individual by another Government agency based on such investigation and report.

#### INVESTIGATIONS BY F. B. I.

(d) In the event an investigation made pursuant to subsections (a) and (b) of this section develops any data reflecting that the individual who is the subject of the investigation is of questionable loyalty, the Civil Service Commission shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Civil Service Commission for its information and appropriate action.

#### PRESIDENTIAL INVESTIGATION

(e) If the President deems it to be in the national interest he may from time to time determine that investigations of any

group or class which are required by subsections (a), (b), and (c) of this section be made by the Federal Bureau of Investigation.

#### CERTIFICATION OF SPECIFIC POSITIONS FOR INVESTIGATION BY F.B.I.

(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a majority of the members of the Commission shall certify those specific positions which are of a high degree of importance or sensitivity, and upon such certification, the investigation and reports required by such provisions shall be made by the Federal Bureau of Investigation.

#### INVESTIGATION STANDARDS

(g) The Commission shall establish standards and specifications in writing as to the scope and extent of investigations, the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security. Such standards and specifications shall be based on the location and class or kind of work to be done, and shall, among other considerations, take into account the degree of importance to the common defense and security of the restricted data to which access will be permitted.

#### WAR TIME CLEARANCE

(h) Whenever the Congress declares that a state of war exists, or in the event of a national disaster due to enemy attack, the Commission is authorized during the state of war or period of national disaster due to enemy attack to employ individuals and to permit individuals access to Restricted Data pending the investigation report, and determination required by subsection (b) of this section, to the extent that and so long as the Commission finds that such action is required to prevent impairment of its activities in furtherance of the common defense and security. [42 U.S.C. 2165]

SEC. 146. GENERAL PROVISIONS.—a. Sections 141 and 145, inclusive, shall not exclude the applicable provisions of any other laws, except that no Government agency shall take any action under such other laws inconsistent with the provisions of those sections.

b. The Commission shall have no power to control or restrict the dissemination of information other than as granted by this or any other law. [42 U.S.C. 2166]

#### PATENTS AND INVENTIONS

SEC. 151. INVENTIONS RELATING TO ATOMIC WEAPONS, AND FILING OF REPORTS—DENIAL OF PATENT; REVOCATION OF PRIOR PATENTS.—(a) No patent shall hereafter be granted for any invention or discovery which is useful solely in the utilization of

special nuclear material or atomic energy in an atomic weapon. Any patent granted for any such invention or discovery is revoked, and just compensation shall be made therefor.

#### DENIAL OF RIGHTS; REVOCATION OF PRIOR RIGHTS

(b) No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the utilization of special nuclear material or atomic energy in atomic weapons. Any rights conferred by any patent heretofore granted for any invention or discovery are revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

#### REPORT OF INVENTION TO COMMISSIONER OF PATENTS

(c) Any person who has made or hereafter makes an invention or discovery useful in the production or utilization of special nuclear material or atomic energy, shall file with the Commission a report containing a complete description thereof unless such invention or discovery is described in an application for a patent filed with the Commissioner of Patents by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before the one hundred and eightieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization.

#### REPORT TO COMMISSION BY COMMISSIONER OF PATENTS

(d) The Commissioner of Patents shall notify the Commission of all applications for patents heretofore or hereafter filed which, in his opinion, disclose inventions or discoveries required to be reported under subsection (c) of this section, and shall provide the Commission access to all such applications.

#### CONFIDENTIAL INFORMATION; CIRCUMSTANCES PERMITTING DISCLOSURE

(e) Reports filed pursuant to subsection (c) of this section, and applications to which access is provided under subsection (d) of this section, shall be kept in confidence by the Commission, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commission. [42 U.S.C. 2181]

SEC. 152. INVENTIONS CONCEIVED DURING COMMISSION CONTRACTS.—Any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrange-



ment involved the expenditure of funds by the Commission, shall be vested in, and be the property of, the Commission, except that the Commission may waive its claim to any such invention or discovery under such circumstances as the Commission may deem appropriate, consistent with the policy of this section. No patent for any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, shall be issued unless the applicant files with the application, or within thirty days after request therefor by the Commissioner of Patents (unless the Commission advises the Commissioner of Patents that its rights have been determined and that accordingly no statement is necessary) a statement under oath setting forth the full facts surrounding the making or conception of the invention or discovery described in the application and whether the invention or discovery was made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission. The Commissioner of Patents shall as soon as the application is otherwise in condition for allowance forward copies of the application and the statement to the Commission.

The Commissioner of Patents may proceed with the application and issue the patent to the applicant (if the invention or discovery is otherwise patentable) unless the Commission, within 90 days after receipt of copies of the application and statement, directs the Commissioner of Patents to issue the patent to the Commission (if the invention or discovery is otherwise patentable) to be held by the Commission as the agent of and on behalf of the United States.

If the Commission files such a direction with the Commissioner of Patents, and if the applicant's statement claims, and the applicant still believes, that the invention or discovery was not made or conceived in the course of or under any contract, subcontract or arrangement entered into with or for the benefit of the Commission entitling the Commission to the title to the application or the patent the applicant may, within 30 days after notification of the filing of such a direction, request a hearing before a Board of Patent Interferences. The Board shall have the power to hear and determine whether the Commission was entitled to the direction filed with the Commissioner of Patents. The Board shall follow the rules and procedures established for interference cases and an appeal may be taken by either the applicant or the Commission from the final order of the Board to the Court of Customs and Patent Appeals in accordance with the procedures governing the appeals from the Board of Patent Interferences.

If the statement filed by the applicant should thereafter be found to contain false material statements any notification by the Commission that it has no objections to the issuance of a patent to the applicant shall not be deemed in any respect to constitute a waiver of the provisions of this section or of any applicable

civil or criminal statute, and the Commission may have the title to the patent transferred to the Commission on the records of the Commissioner of Patents in accordance with the provisions of this section. A determination of rights by the Commission pursuant to a contractual provision or other arrangement prior to the request of the Commissioner of Patents for the statement, shall be final in the absence of false material statements or non-disclosure of material facts by the applicant. [42 U.S.C. 2182]

#### GENERAL AUTHORITY

SEC. 161. GENERAL DUTIES OF COMMISSION.—In the performance of its functions the Commission is authorized to—

#### ESTABLISHMENT OF ADVISORY BOARDS

(a) establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters, provided that the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of each such board;

#### STANDARDS GOVERNING USE AND POSSESSION OF MATERIAL

(b) establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property;

#### STUDIES AND INVESTIGATIONS

(c) make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this chapter, or in the administration or enforcement of this chapter, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpoena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States;

#### EMPLOYMENT OF PERSONNEL

(d) appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with the Classification Act of 1949, as amended, except that, to the extent the Commission deems such

action necessary to the discharge of its responsibilities, personnel may be employed and their compensation fixed without regard to such laws: *Provided, however*, That no officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel up to a limit of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended) whose position would be subject to the Classification Act of 1949, as amended, if such Act were applicable to such position, shall be paid a salary at a rate in excess of the rate payable under such Act for positions of equivalent difficulty or responsibility. Such rates of compensation may be adopted by the Commission as may be authorized by the Classification Act of 1949, as amended, as of the same date such rates are authorized for positions subject to such Act. The Commission shall make adequate provision for administrative review of any determination to dismiss any employee;

#### ACQUISITION OF MATERIAL, PROPERTY, ETC.; NEGOTIATION OF COMMERCIAL LEASES

(e) acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 2224 of this title: *Provided, however*, That in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which (at the time of the initial grant of any privilege grant, lease, or permit, or renewal thereof, or in order to avoid inequities or undue hardship prior to the sale by the United States of property affected by such grant) are fair and reasonable to responsible persons to operate commercial businesses without advertising and without advertising<sup>1</sup> and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community;

#### UTILIZATION OF OTHER FEDERAL AGENCIES

(f) with the consent of the agency concerned, utilize or employ the services or personnel of any Government agency or any

<sup>1</sup> So in original.

State or local government, or voluntary or uncompensated personnel, to perform such functions on its behalf as may appear desirable;

#### ACQUISITION OF REAL AND PERSONAL PROPERTY

(g) acquire, purchase, lease, and hold real and personal property, including patents, as agents of and on behalf of the United States, subject to the provisions of section 2224 of this title, and to sell, lease, grant, and dispose of such real and personal property as provided in this chapter;

#### CONSIDERATION OF LICENSE APPLICATIONS

(h) consider in a single application one or more of the activities for which a license is required by this chapter, combine in a single license one or more of such activities, and permit the applicant or licensee to incorporate by reference pertinent information already filed with the Commission;

#### REGULATIONS GOVERNING RESTRICTED DATA

(i) prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this chapter, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 2073 of this title or produced by any person in connection with any activity authorized pursuant to this chapter, and to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, and (3) to govern any activity authorized pursuant to this chapter, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property;

#### DISPOSITION OF SURPLUS MATERIALS

(j) without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 488 of Title 40, or any other law, make such disposition as it may deem desirable of (1) radioactive materials, and (2) any other property, the special disposition of which is, in the opinion of the Commission, in the interest of the national security: *Provided, however,* That the property furnished to licensees in accordance with the provisions of subsection (m) of this section shall not be deemed to be property disposed of by the Commission pursuant to this subsection;

#### CARRYING OF FIREARMS

(k) authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and securi-

ty to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors engaged in the protection of property owned by the United States and located at facilities owned by or contracted to the United States as it deems necessary in the interests of the common defense and security to carry firearms while in the discharge of their official duties;

#### AGREEMENTS REGARDING PRODUCTION

(m) enter into agreements with persons licensed under section 2133, 2134, 2073(a) (4), or 2093(a) (4) of this title for such periods of time as the Commission may deem necessary or desirable (1) to provide for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct, or other material or special nuclear material owned by or made available to such licensees and which is utilized or produced in the conduct of the licensed activity, and (2) to sell, lease, or otherwise make available to such licensees such quantities of source or byproduct material, and other material not defined as special nuclear material pursuant to this chapter, as may be necessary for the conduct of the licensed activity: *Provided, however*, That any such agreement may be canceled by the licensee at any time upon payment of such reasonable cancellation charges as may be agreed upon by the licensee and the Commission: *And provided further*, That the Commission shall establish prices to be paid by licensees for material or services to be furnished by the Commission pursuant to this subsection, which prices shall be established on such a nondiscriminatory basis as, in the opinion of the Commission, will provide reasonable compensation to the Government for such material or services and will not discourage the development of sources of supply independent of the Commission;

#### DELEGATION OF FUNCTIONS

(n) delegate to the General Manager or other officers of the Commission any of those functions assigned to it under this chapter except those specified in sections 2071, 2077(b), 2091, 2138, 2153, 2165(b) of this title (with respect to the determination of those persons to whom the Commission may reveal Restricted Data in the national interest), 2165(f) of this title and subsection (a) of this section;

#### REPORTS

(o) require by rule, regulation, or order, such reports, and the keeping of such records with respect to, and to provide for such inspections of, activities and studies of types specified in section 2051 of this title and of activities under licenses issued pursuant to sections 2073, 2093, 2111, 2133, and 2134 of this title, as may be necessary to effectuate the purposes of this chapter, including section 2135 of this title; and



## RULES AND REGULATIONS

(p) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter.

## EASEMENTS FOR RIGHTS-OF-WAY

(q) The Commission is authorized and empowered, under such terms and conditions as are deemed advisable by it, to grant easements for rights-of-way over, across, in, and upon acquired lands under its jurisdiction and control, and public lands permanently withdrawn or reserved for the use of the Commission, to any State, political subdivision thereof, or municipality, or to any individual, partnership, or corporation of any State, Territory, or possession of the United States, for (a) railroad tracks; (b) oil pipe lines; (c) substations for electric power transmission lines, telephone lines, and telegraph lines, and pumping stations for gas, water, sewer, and oil pipe lines; (d) canals; (e) ditches; (f) flumes; (g) tunnels; (h) dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other fish-cultural improvements; (i) roads and streets; and (j) for any other purpose or purposes deemed advisable by the Commission: *Provided*, That such rights-of-way shall be granted only upon a finding by the Commission that the same will not be incompatible with the public interest: *Provided further*, That such rights-of-way shall not include any more land than is reasonably necessary for the purpose for which granted: *And provided further*, That all or any part of such rights-of-way may be annulled and forfeited by the Commission for failure to comply with the terms and conditions of any grant hereunder or for nonuse for a period of two consecutive years or abandonment of rights granted under authority hereof. Copies of all instruments granting easements over public lands pursuant to this section shall be furnished to the Secretary of the Interior.

## SALE OF UTILITIES AND RELATED SERVICES

(r) Under such regulations and for such periods and at such prices the Commission may prescribe, the Commission may sell or contract to sell to purchasers within Commission-owned communities or in the immediate vicinity of the Commission community, as the case may be, any of the following utilities and related services, if it is determined that they are not available from another local source and that the sale is in the interest of the national defense or in the public interest:

- (1) Electric power.
- (2) Steam.
- (3) Compressed air.
- (4) Water.
- (5) Sewage and garbage disposal.
- (6) Natural, manufactured, or mixed gas.
- (7) Ice.

(8) Mechanical refrigeration.

(9) Telephone service.

Proceeds of sales under this subsection shall be credited to the appropriation currently available for the supply of that utility or service. To meet local needs the Commission may make minor expansions and extensions of any distributing system or facility within or in the immediate vicinity of a Commission-owned community through which a utility or service is furnished under this subsection.

#### SUCCESSION OF AUTHORITY

(s) establish a plan for a succession of authority which will assure the continuity of direction of the Commission's operations in the event of a national disaster due to enemy activity. Notwithstanding any other provision of this chapter, the person or persons succeeding to command in the event of disaster in accordance with the plan established pursuant to this subsection shall be vested with all of the authority of the Commission: *Provided*, That any such succession to authority, and vesting of authority shall be effective only in the event and as long as a quorum of three or more members of the Commission is unable to convene and exercise direction during the disaster period: *Provided further*, That the disaster period includes the period when attack on the United States is imminent and the post-attack period necessary to reestablish normal lines of command;

#### CONTRACTS

(t) enter into contracts for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct or other material, or special nuclear material, in accordance with and within the period of an agreement for cooperation while comparable services are available to persons licensed under section 2133 or 2134 of this title: *Provided*, That the prices for services under such contracts shall be no less than the prices currently charged by the Commission pursuant to subsection (m) of this section;

#### ADDITIONAL CONTRACTS; GUIDING PRINCIPLES; APPROPRIATIONS

(u) (1) enter into contracts for such periods of time as the Commission may deem necessary or desirable, but not to exceed five years from the date of execution of the contract, for the purchase or acquisition of reactor services or services related to or required by the operation of reactors;

(2) (A) enter into contracts for such periods of time as the Commission may deem necessary or desirable for the purchase or acquisition of any supplies, equipment, materials, or services required by the Commission whenever the Commission determines that: (i) it is advantageous to the Government to make such purchase or acquisition from commercial sources; (ii) the furnishing of such supplies, equipment, materials, or services

will require the construction or acquisition of special facilities by the vendors or suppliers thereof; (iii) the amortization chargeable to the Commission constitutes an appreciable portion of the cost of contract performance, excluding cost of materials; and (iv) the contract for such period is more advantageous to the Government than a similar contract not executed under the authority of this subsection. Such contracts shall be entered into for periods not to exceed five years each from the date of initial delivery of such supplies, equipment, materials, or services or ten years from the date of execution of the contracts excluding periods of renewal under option.

(B) In entering into such contracts the Commission shall be guided by the following principles: (i) the percentage of the total cost of special facilities devoted to contract performance and chargeable to the Commission should not exceed the ratio between the period of contract deliveries and the anticipated useful life of such special facilities; (ii) the desirability of obtaining options to renew the contract for reasonable periods at prices not to include charges for special facilities already amortized; and (iii) the desirability of reserving in the Commission the right to take title to the special facilities under appropriate circumstances; and

(3) include in contracts made under this subsection provisions which limit the obligation of funds to estimated annual deliveries and services and the unamortized balance of such amounts due for special facilities as the parties shall agree is chargeable to the performance of the contract. Any appropriation available at the time of termination or thereafter made available to the Commission for operating expenses shall be available for payment of such costs which may arise from termination as the contract may provide. The term "special facilities" as used in this subsection means any land and any depreciable buildings, structures, utilities, machinery, equipment, and fixtures necessary for the production or furnishing of such supplies, equipment, materials, or services and not available to the vendors or suppliers for the performance of the contract.

**CONTRACTS FOR PRODUCTION OR ENRICHMENT OF SPECIAL NUCLEAR MATERIAL; DOMESTIC LICENSEES; OTHER NATIONS; PRICES; MATERIALS OF FOREIGN ORIGIN; CRITERIA FOR AVAILABILITY OF SERVICES UNDER THIS SUBSECTION; CONGRESSIONAL REVIEW**

(v) (A) enter into contracts with persons licensed under sections 2073, 2093, 2133 or 2134 of this title for such periods of time as the Commission may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission; and

(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission in accordance with and with-

in the period of an agreement for cooperation arranged pursuant to section 2153 of this title while comparable services are made available pursuant to paragraph (A) of this subsection: *Provided*, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time: *And provided further*, That the Commission, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Commission shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That before the Commission establishes such criteria, the proposed criteria shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing the forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty-five-day period.

#### LICENSE FEES FOR NUCLEAR POWER REACTORS

(w) prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 2133 or 2134(b) of this title, any fee, charge, or price which it may require, in accordance with the provisions of section 483a of Title 31 or any other law, of applicants for, or holders of, such licenses. [42 U.S.C. 2201]

SEC. 162. CONTRACTS.—The President may, in advance, exempt any specific action of the Commission in a particular matter from the provisions of law relating to contracts whenever he determines that such action is essential in the interest of the common defense and security. [42 U.S.C. 2202]

#### COMPENSATION FOR PRIVATE PROPERTY

SEC. 173. PATENT APPLICATION DISCLOSURES.—In the event that the Commission communicates to any nation any Restricted Data based on any patent application not belonging to the United States, just compensation shall be paid by the United States to the owner of the patent application. The Commission shall determine such compensation. If the compensation so deter-

mined is unsatisfactory to the person entitled thereto, such person shall be paid 75 per centum of the amount so determined, and shall be entitled to sue the United States in the Court of Claims or in any district court of the United States for the district in which such claimant is a resident in a manner provided by section 1346 of Title 28 of the United States Code to recover such further sum as added to such 75 per centum will constitute just compensation. [42 U.S.C. 2223]

SEC. 174. ATTORNEY GENERAL APPROVAL OF TITLE.—All real property acquired under this Act shall be subject to the provisions of section 355 of the Revised Statutes, as amended: *Provided, however,* That real property acquired by purchase or donation, or other means of transfer may also be occupied, used, and improved for the purposes of this Act prior to approval of title by the Attorney General in those cases where the President determines that such action is required in the interest of the common defense and security. [42 U.S.C. 2224]

#### JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

SEC. 181. GENERAL.—The provisions of the Administrative Procedure Act (Public Law 404, Seventy-ninth Congress, approved June 11, 1946) shall apply to all agency action taken under this Act, and the terms "agency" and "agency action" shall have the meaning specified in the Administrative Procedure Act: *Provided, however,* That in the case of agency proceedings or actions which involve Restricted Data or defense information, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data or defense information to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data or defense information were not involved. [42 U.S.C. 2231]

SEC. 182. LICENSE APPLICATIONS—CONTENTS AND FORM.—(a) Each application for a license hereunder shall be in writing and shall specifically state such information as the Commission, by rule or regulation, may determine to be necessary to decide such of the technical and financial qualifications of the applicant, the character of the applicant, the citizenship of the applicant, or any other qualifications of the applicant as the Commission may deem appropriate for the license. In connection with applications for licenses to operate production or utilization facilities, the applicant shall state such technical specifications, including information of the amount, kind, and source of special nuclear material required, the place of the use, the specific characteristics of the facility, and such other information as the Commission may, by rule or regulation, deem necessary in order to enable it to find that the utilization or production of special nuclear material will be in accord with the common defense and security and will provide adequate protection to the health and safety of the public. Such technical specifica-



tions shall be a part of any license issued. The Commission may at any time after the filing of the original application, and before the expiration of the license, require further written statements in order to enable the Commission to determine whether the application should be granted or denied or whether a license should be modified or revoked. All applications and statements shall be signed by the applicant or licensee. Applications for, and statements made in connection with, licenses under sections 2133 and 2134 of this title shall be made under oath or affirmation. The Commission may require any other applications or statements to be made under oath or affirmation.

#### REVIEW OF APPLICATIONS BY ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; REPORT

(b) The Advisory Committee on Reactor Safeguards shall review each application under section 2133 or section 2134(b) of this title for a construction permit or an operating license for a facility, any application under section 2134(c) of this title for a construction permit or an operating license for a testing facility, any application under subsection (a) or (c) of section 2134 of this title specifically referred to it by the Commission, and any application for an amendment to a construction permit or an amendment to an operating license under section 2133 or 2134(a), (b), or (c) of this title specifically referred to it by the Commission, and shall submit a report thereon which shall be made part of the record of the application and available to the public except to the extent that security classification prevents disclosure.

#### COMMERCIAL POWER; PUBLICATION

(c) The Commission shall not issue any license under section 2133 of this title for a utilization or production facility for the generation of commercial power until it has given notice in writing to such regulatory agency as may have jurisdiction over the rates and services incident to the proposed activity; until it has published notice of the application in such trade or news publications as the Commission deems appropriate to give reasonable notice to municipalities, private utilities, public bodies, and cooperatives which might have a potential interest in such utilization or production facility; and until it has published notice of such application once each week for four consecutive weeks in the Federal Register, and until four weeks after the last notice.

#### PREFERRED CONSIDERATION

(d) The Commission, in issuing any license for a utilization or production facility for the generation of commercial power under section 2133 of this title, shall give preferred consideration to applications for such facilities which will be located in high cost power areas in the United States if there are conflicting applications for a limited opportunity for such license.

Where such conflicting applications resulting from limited opportunity for such license include those submitted by public or cooperative bodies such applications shall be given preferred consideration. [42 U.S.C. 2232]

SEC. 183. **TERMS OF LICENSES.**—Each license shall be in such form and contain such terms and conditions as the Commission may, by rule or regulation, prescribe to effectuate the provisions of this chapter, including the following provisions:

(b) No right to the special nuclear material shall be conferred by the license except as defined by the license.

(c) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of this chapter.

(d) Every license issued under this chapter shall be subject to the right of recapture or control reserved by section 2138 of this title, and to all of the other provisions of this chapter, now or hereafter in effect and to all valid rules and regulations of the Commission. [42 U.S.C. 2233]

SEC. 186. **REVOCATION.**—c. Upon revocation of the license, the Commission may immediately retake possession of all special nuclear material held by the licensee. In cases found by the Commission to be of extreme importance to the national defense and security or to the health and safety of the public, the Commission may recapture any special nuclear material held by the licensee or may enter upon and operate the facility prior to any of the procedures provided under the Administrative Procedure Act. Just compensation shall be paid for the use of the facility. [42 U.S.C. 2236]

#### JOINT COMMITTEE ON ATOMIC ENERGY

SEC. 201. **MEMBERSHIP.**—There is hereby established a Joint Committee on Atomic Energy to be composed of nine Members of the Senate to be appointed by the President of the Senate, and nine Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. In each instance not more than five Members shall be members of the same political party. [42 U.S.C. 2251]

SEC. 202. **AUTHORITY AND DUTY.**—The Joint Committee shall make continuing studies of the activities of the Atomic Energy Commission and of problems relating to the development, use, and control of atomic energy. During the first ninety days of each session of the Congress, the Joint Committee may conduct hearings in either open or executive session for the purpose of receiving information concerning the development, growth, and state of the atomic energy industry. The Commission shall keep the Joint Committee fully and currently informed with respect to all of the Commission's activities. The Department of Defense shall keep the Joint Committee fully and currently informed with respect to all matters within the Department of Defense relating to the development, utilization, or application of atomic energy. Any Government agency shall furnish any

information requested by the Joint Committee with respect to the activities or responsibilities of that agency in the field of atomic energy. All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the Commission or to the development, use, or control of atomic energy shall be referred to the Joint Committee. The members of the Joint Committee who are Members of the Senate shall from time to time report to the Senate, and the members of the Joint Committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses which are referred to the Joint Committee or otherwise within the jurisdiction of the Joint Committee. [42 U.S.C. 2252]

SEC. 203. CHAIRMAN.—Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee, and shall be filled in the same manner as in the case of the original selection. The Joint Committee shall select a Chairman and a Vice Chairman from among its members at the beginning of each Congress. The Vice Chairman shall act in the place and stead of the Chairman in the absence of the Chairman. The Chairmanship shall alternate between the Senate and the House of Representatives with each Congress, and the Chairman shall be selected by the Members from that House entitled to the Chairmanship. The Vice Chairman shall be chosen from the House other than that of the Chairman by the Members from that House. [42 U.S.C. 2253]

SEC. 204. POWERS.—In carrying out its duties under this Act, the Joint Committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings or investigations, to sit and act at such places and times, to require, by subpoena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The Joint Committee may make such rules respecting its organization and procedures as it deems necessary: *Provided, however,* That no measure or recommendation shall be reported from the Joint Committee unless a majority of the committee assent. Subpenas may be issued over the signature of the Chairman of the Joint Committee or by any member designated by him or by the Joint Committee, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Joint Committee or any member thereof may administer oaths to witnesses. The Joint Committee may use a committee seal. The provisions of sections 102 to 104, inclusive, of the Revised Statutes, as amended, shall apply in case of any failure of any witness to comply with a subpoena or to testify when summoned under authority of this section. The expenses of the Joint Committee shall be paid from the contingent fund of the Senate from funds appropriated for the Joint Committee upon vouchers

approved by the Chairman. The cost of stenographic service to report public hearings shall not be in excess of the amounts prescribed by law for reporting the hearings of standing committees of the Senate. The cost of stenographic service to report executive hearings shall be fixed at an equitable rate by the Joint Committee. Members of the Joint Committee, and its employees and consultants, while traveling on official business for the Joint Committee, may receive either the per diem allowance authorized to be paid to Members of Congress or its employees, or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher. [42 U.S.C. 2254]

SEC. 205. STAFF AND ASSISTANCE.—The Joint Committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees as it deems necessary and advisable. The Joint Committee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government. The Joint Committee is authorized to permit such of its members, employees, and consultants as it deems necessary in the interest of common defense and security to carry firearms while in the discharge of their official duties for the committee. [42 U.S.C. 2255]

SEC. 206. CLASSIFICATION OF INFORMATION.—The Joint Committee may classify information originating within the committee in accordance with standards used generally by the executive branch for classifying Restricted Data or defense information [42 U.S.C. 2256]

SEC. 207. RECORDS.—The Joint Committee shall keep a complete record of all committee actions, including a record of the votes on any question on which a record vote is demanded. All committee records, data, charts, and files shall be the property of the Joint Committee and shall be kept in the offices of the Joint Committee or other places as the Joint Committee may direct under such security safeguards as the Joint Committee shall determine in the interest of the common defense and security. [42 U.S.C. 2257]

#### ENFORCEMENT

SEC. 221. GENERAL PROVISIONS.—a. To protect against the unlawful dissemination of Restricted Data and to safeguard facilities, equipment, materials, and other property of the Commission, the President shall have authority to utilize the services of any Government agency to the extent he may deem necessary or desirable.

b. The Federal Bureau of Investigation of the Department of Justice shall investigate all alleged or suspected criminal violations of this Act.

(c) No action shall be brought against any individual or person for any violation under this chapter unless and until the Attorney General of the United States has advised the Commission with respect to such action and no such action shall be commenced except by the Attorney General of the United States: *Provided, however,* That no action shall be brought under sec-



tion 2272, 2273, 2274, 2275, or 2276 of this title except by the express direction of the Attorney General: *And provided further*, That nothing in this subsection shall be construed as applying to administrative action taken by the Commission. [42 U.S.C. 2271]

SEC. 222. VIOLATION OF SPECIFIC SECTIONS.—Whoever willfully violates, attempts to violate, or conspires to violate, any provision of sections 2077, 2122, or 2131 of this title, or whoever unlawfully interferes, attempts to interfere, or conspires to interfere with any recapture or entry under section 2138 of this title, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment for not more than ten years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation shall, upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than \$20,000 or both. [42 U.S.C. 2272]

SEC. 223. VIOLATION OF SECTIONS GENERALLY.—Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this chapter for which no criminal penalty is specifically provided or of any regulation or order prescribed or issued under section 2095 or 2201(b), (i), or (o) of this title shall, upon conviction thereof, be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than \$20,000 or by imprisonment for not more than twenty years, or both. [42 U.S.C. 2273]

SEC. 224. COMMUNICATION OF RESTRICTED DATA.—Whoever, lawfully or unlawfully, having possession of, access to, control over, or being entrusted with any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data—

(a) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than \$20,000 or both;

(b) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both. [42 U.S.C. 2274]

SEC. 225. RECEIPT OF RESTRICTED DATA.—Whoever, with intent to injure the United States or with intent to secure an advantage



to any foreign nation, acquires, or attempts or conspires to acquire any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data shall, upon conviction thereof, be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than \$20,000 or both. [42 U.S.C. 2275]

SEC. 226. TAMPERING WITH RESTRICTED DATA.—Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, removes, conceals, tampers with, alters, mutilates, or destroys any document, writing, sketch, photograph, plan, model, instrument, appliance, or note involving or incorporating Restricted Data and used by any individual or person in connection with the production of special nuclear material, or research or development relating to atomic energy, conducted by the United States, or financed in whole or in part by Federal funds, or conducted with the aid of special nuclear material, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than \$20,000 or both. [42 U.S.C. 2276]

SEC. 227. DISCLOSURE OF RESTRICTED DATA.—Whoever, being or having been an employee or member of the Commission, a member of the Armed Forces, an employee of an agency of the United States, or being or having been a contractor of the Commission or of an agency of the United States, or being or having been an employee of a contractor of the Commission or of an agency of the United States, or being or having been a licensee of the Commission, or being or having been an employee of a licensee of the Commission, knowingly communicates, or whoever conspires to communicate or to receive, any Restricted Data, knowing or having reason to believe that such data is Restricted Data, to any person not authorized to receive Restricted Data pursuant to the provisions of this Act or under rule or regulation of the Commission issued pursuant thereto, knowing or having reason to believe such person is not so authorized to receive Restricted Data shall, upon conviction thereof, be punishable by a fine of not more than \$2,500. [42 U.S.C. 2277]

SEC. 228. STATUTE OF LIMITATIONS.—Except for a capital offense, no individual or person shall be prosecuted, tried, or punished for any offense prescribed or defined in sections 224 to 226, inclusive, of this Act unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed. [42 U.S.C. 2278]

#### TRESPASS UPON COMMISSION INSTALLATIONS

SEC. 229. (a) The Commission is authorized to issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapons, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or

property, into or upon any facility, installation, or real property subject to the jurisdiction, administration, or in the custody of the Commission. Every such regulation of the Commission shall be posted conspicuously at the location involved.

(b) Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) of this section shall, upon conviction thereof, be punishable by a fine of not more than \$1,000.

(c) Whoever shall willfully violate any regulation of the Commission issued pursuant to subsection (a) of this section with respect to any installation or other property which is enclosed by a fence, wall, floor, roof, or other structural barrier shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed \$5,000 or to imprisonment for not more than one year, or both. [42 U.S.C. 2278a.]

#### PHOTOGRAPHING OF COMMISSION INSTALLATIONS

SEC. 230. It shall be an offense, punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both—

(1) to make any photograph, sketch, picture, drawing, map or graphical representation, while present on property subject to the jurisdiction, administration or in the custody of the Commission, of any installations or equipment designated by the President as requiring protection against the general dissemination of information relative thereto, in the interest of the common defense and security, without first obtaining the permission of the Commission, and promptly submitting the product obtained to the Commission for inspection or such other action as may be deemed necessary; or

(2) to use or permit the use of an aircraft or any contrivance used, or designed for navigation or flight in air, for the purpose of making a photograph, sketch, picture, drawing, map or graphical representation of any installation or equipment designated by the President as provided in the preceding paragraph, unless authorized by the Commission. [42 U.S.C. 2278b.]

#### APPLICABILITY OF OTHER LAWS

SEC. 231. Sections 224 to 230 of this Act shall not exclude the applicable provisions of any other laws. [As renumbered and amended by Act of August 6, 1956, ch. 1015 §§ 6, 7, 70 Stat. 1070; 42 U.S.C. 2279.]

#### DENIAL OF ANNUITIES TO FEDERAL EMPLOYEES

Act of September 1, 1954 (68 Stat. 1142; 5 U.S.C. 8311–8322)—*Denial of annuities to Federal employees convicted of certain offenses:*

SEC. 8312. CONVICTION OF CERTAIN OFFENSES.—(a) An individual, or his survivor or beneficiary, may not be paid annuity or

retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual—

(1) was convicted, before, on, or after September 1, 1954, of an offense named by subsection (b) of this section, to the extent provided by that subsection; or

(2) was convicted, before, on, or after September 26, 1961, of an offense named by subsection (c) of this section, to the extent provided by that subsection.

The prohibition on payment of annuity or retired pay applies—

(A) with respect to the offenses named by subsection (b) of this section, to the period after the date of the conviction or after September 1, 1954, whichever is later; and

(B) with respect to the offenses named by subsection (c) of this section, to the period after the date of conviction or after September 26, 1961, whichever is later.

(b) The following are the offenses to which subsection (a) of this section applies if the individual was convicted before, on, or after September 1, 1954:

(1) An offense within the purview of—

(A) section 792 (harboring or concealing persons), 793 (gathering, transmitting, or losing defense information), 794 (gathering or delivering defense information to aid foreign government), or 798 (disclosure of classified information), of chapter 37 (relating to espionage and censorship) of title 18;

(B) chapter 105 (relating to sabotage) of title 18;

(C) section 2381 (treason), 2382 (misprision of treason), 2383 (rebellion or insurrection), 2384 (seditious conspiracy), 2385 (advocating overthrow of government), 2387 (activities affecting armed forces generally), 2388 (activities affecting armed forces during war), 2389 (recruiting for service against United States), or 2390 (enlistment to serve against United States), of chapter 115 (relating to treason, sedition, and subversive activities) of title 18;

(D) section 10(b) (2), (3), or (4) of the Atomic Energy Act of 1946 (60 Stat. 766, 767), as in effect before August 30, 1954;

(E) section 16(a) or (b) of the Atomic Energy Act of 1946 (60 Stat. 773), as in effect before August 30, 1954, insofar as the offense is committed with intent to injure the United States or with intent to secure an advantage to a foreign nation; or

(F) an earlier statute on which a statute named by subparagraph (A), (B), or (C) of this paragraph (1) is based.

(2) An offense within the purview of—

(A) article 104 (aiding the enemy) or article 106 (spies) of the Uniform Code of Military Justice (chap-

ter 47 of title 10) or an earlier article on which article 104 or article 106, as the case may be, is based; or

(B) a current article of the Uniform Code of Military Justice (or an earlier article on which the current article is based) not named by subparagraph (A) of this paragraph (2) on the basis of charges and specifications describing a violation of a statute named by paragraph (1), (3), or (4) of this subsection, if the executed sentence includes death, dishonorable discharge, or dismissal from the service, or if the defendant dies before execution of that sentence as finally approved.

(3) Perjury committed under the statutes of the United States or the District of Columbia—

(A) in falsely denying the commission of an act which constitutes an offense within the purview of—

(i) a statute named by paragraph (1) of this subsection; or

(ii) an article or statute named by paragraph (2) of this subsection insofar as the offense is within the purview of an article or statute named by paragraph (1) or (2) (A) of this subsection;

(B) in falsely testifying before a Federal grand jury, court of the United States, or court-martial with respect to his service as an employee in connection with a matter involving or relating to an interference with or endangerment of, or involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States; or

(C) in falsely testifying before a congressional committee in connection with a matter under inquiry before the congressional committee involving or relating to an interference with or endangerment of, or involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States.

(4) Subornation of perjury committed in connection with the false denial or false testimony of another individual as specified by paragraph (3) of this subsection.

(c) The following are the offenses to which subsection (a) of this section applies if the individual was convicted before, on, or after September 26, 1961:

(1) An offense within the purview of—

(A) section 2272 (violation of specific sections) or 2273 (violation of sections generally of chapter 23 of title 42) of title 42 insofar as the offense is committed with intent to injure the United States or with intent to secure an advantage to a foreign nation;

(B) section 2274 (communication of restricted data), 2275 (receipt of restricted data), or 2276 (tampering with restricted data) of title 42; or

(C) section 783 (conspiracy and communication or receipt of classified information) of title 50.

(2) An offense within the purview of a current article of the Uniform Code of Military Justice (chapter 47 of title 10) or an earlier article on which the current article is based, as the case may be, on the basis of charges and specifications describing a violation of a statute named by paragraph (1), (3), or (4) of this subsection, if the executed sentence includes death, dishonorable discharge, or dismissal from the service, or if the defendant dies before execution of that sentence as finally approved.

(3) Perjury committed under the statutes of the United States or the District of Columbia in falsely denying the commission of an act which constitutes an offense within the purview of a statute named by paragraph (1) of this subsection.

(4) Subornation of perjury committed in connection with the false denial of another individual as specified by paragraph (3) of this subsection.<sup>67</sup>

SEC. 8313. ABSENCE FROM THE UNITED STATES TO AVOID PROSECUTION.—(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual—

(1) is under indictment, or has outstanding against him charges preferred under the Uniform Code of Military Justice—

(A) after July 31, 1956, for an offense named by section 8312(b) of this title; or

(B) after September 26, 1961, for an offense named by section 8312(c) of this title; and

(2) willfully remains outside the United States, or its territories and possessions including the Commonwealth of Puerto Rico, for more than 1 year with knowledge of the indictment or charges, as the case may be.

(b) The prohibition on payment of annuity or retired pay under subsection (a) of this section applies to the period after the end of the 1-year period and continues until—

(1) a nolle prosequi to the entire indictment is entered on the record or the charges are dismissed by competent authority;

(2) the individual returns and thereafter the indictment or charges is or are dismissed; or

(3) after trial by court or court-martial, the accused is found not guilty of the offense or offenses.

SEC. 8314. REFUSAL TO TESTIFY.—(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable

<sup>67</sup> This section and section 8315 (*infra*), authorizing the government to deny payment of pensions to former employees who falsely testified with respect to service as government employees in connection with matters involving national security or who falsely answered questions as to membership in the Communist party was an *ex post facto* law. *Hiss v. Hampton*, 338 F. Supp. 1141 (D.C.D.C. 1972).



toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual, before, on, or after September 1, 1954, refused or refuses, or knowingly and willfully failed or fails, to appear, testify, or produce a book, paper, record, or other document, relating to his service as an employee, before a Federal grand jury, court of the United States, court-martial, or congressional committee, in a proceeding concerning—

(1) his past or present relationship with a foreign government; or

(2) a matter involving or relating to an interference with or endangerment of, or involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States.

(b) The prohibition on payment of annuity or retired pay under subsection (a) of this section applies to the period after the date of the failure or refusal of the individual, or after September 1, 1954, whichever is later.

SEC. 8315. FALSIFYING EMPLOYMENT APPLICATIONS.—(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual knowingly and willfully made or makes a false, fictitious, or fraudulent statement or representation, or knowingly and willfully concealed or conceals a material fact—

(1) before, on, or after September 1, 1954, concerning his—

(A) past or present membership in, affiliation or association with, or support of the Communist Party, or a chapter, branch, or subdivision thereof, in or outside the United States, or other organization, party, or group advocating—

(i) the overthrow, by force, violence, or other unconstitutional means, of the Government of the United States;

(ii) the establishment, by force, violence, or other unconstitutional means, of a Communist totalitarian dictatorship in the United States; or

(iii) the right to strike against the United States;

(B) conviction of an offense named by subsection (b) of section 8312 of this title, to the extent provided by that subsection; or

(C) failure or refusal to appear, testify, or produce a book, paper, record, or other document, as specified by section 8314 of this title; or

(2) before, on, or after September 26, 1961, concerning his conviction of an offense named by subsection (c) of section 8312 of this title, to the extent provided by that subsection;

in a document executed by the individual in connection with his employment in, or application for, a civilian or military office or

position in or under the legislative, executive, or judicial branch of the Government of the United States or the government of the District of Columbia.

(b) The prohibition on the payment of annuity or retired pay applies—

(1) with respect to matters specified by subsection (a) (1) of this section, to the period after the statement, representation, or concealment of fact is made or occurs, or after September 1, 1954, whichever is later; and

(2) with respect to matters specified by subsection (a) (2) of this section, to the period after the statement, representation, or concealment of fact is made or occurs, or after September 26, 1961, whichever is later.

SEC. 8316. REFUND OF CONTRIBUTIONS AND DEPOSITS.—(a) When payment of annuity or retired pay is denied under this subchapter because an individual was convicted of an offense named by section 8312 of this title, to the extent provided by that section, or violated section 8314 or 8315 of this title—

(1) the amount, except employment taxes, contributed by the individual toward the annuity, less the amount previously refunded or paid as annuity benefits; and

(2) deposits made under section 1438 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504) to provide the eligible beneficiary with annuity for any period, less the amount previously paid as retired pay benefits;

shall be refunded, on appropriate application therefor—

(A) to the individual;

(B) if the individual is dead, to the beneficiary designated to receive refunds by or under the statute, regulation, or agreement under which the annuity, the benefits of which are denied under this subchapter, would have been payable; or

(C) if a beneficiary is not designated, in the order of precedence prescribed by section 8342(c) of this title or section 2771 of title 10, as the case may be.

(b) A refund under subsection (a) of this section shall be made with interest at the rate and for the period provided under the statute, regulation, or agreement under which the annuity would have been payable. However, interest may not be computed—

(1) if the individual was convicted of an offense named by section 8312(b) of this title, or violated section 8314 or 8315(a) (1) of this title, for the period after the conviction or commission of the violation, or after September 1, 1954, whichever is later; or

(2) if the individual was convicted of an offense named by section 8312(c) of this title, or violated section 8315(a) (2) of this title, for the period after the conviction or commission of the violation, or after September 26, 1961, whichever is later.

**SEC. 8317. REPAYMENT OF ANNUITY OR RETIRED PAY PROPERLY PAID; WAIVER.**—(a) An individual, or his survivor or beneficiary, to whom payment of annuity is denied under this subchapter is not thereafter required to repay that part of the annuity otherwise properly paid to the individual, or to his survivor or beneficiary on the basis of the service of the individual, which is in excess of the aggregate amount of the contributions of the individual toward the annuity, with applicable interest.

(b) An individual, including an eligible beneficiary under chapter 73 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), to whom payment of retired pay is denied under this subchapter is not thereafter required to repay retired pay otherwise properly paid to the individual or beneficiary which is paid in violation of this subchapter.

**SEC. 8318. RESTORATION OF ANNUITY OR RETIRED PAY.**—(a) If an individual who was convicted, before, on, or after September 1, 1954, of—

(1) an offense named by section 8312 of this title; or

(2) an offense constituting a violation of section 8314 or 8315 of this title;

is pardoned by the President, the right of the individual and his survivor or beneficiary to receive annuity or retired pay previously denied under this subchapter is restored as of the date of the pardon.

(b) The President may restore, effective as of the date he prescribes, the right to receive annuity or retired pay which is denied before, on, or after September 1, 1954, under section 8314 or 8315 of this title, to the individual and to his survivor or beneficiary.

(c) Payment of annuity or retired pay which results from pardon or restoration by the President under subsection (a) or (b) of this section may not be made for a period before—

(1) the date of pardon referred to by subsection (a) of this section; or

(2) the effective date of restoration referred to by subsection (b) of this section.

(d) Credit for a period of service covered by a refund under section 8316 of this title is allowed only after the amount refunded has been redeposited.

**SEC. 8319. REMOVAL OF MEMBERS OF THE UNIFORMED SERVICES FROM ROLLS; RESTORATION; REAPPOINTMENT.**—(a) The President may drop from the rolls a member of a uniformed service who is deprived of retired pay under this subchapter.

(b) The President may restore—

(1) military status to an individual dropped from the rolls to whom retired pay is restored under this subchapter or under section 2 of the Act of September 26, 1961 (75 Stat. 648); and

(2) all rights and privileges to the individual and his

beneficiaries of which he or they were deprived because his name was dropped from the rolls.

(c) If the individual restored was a commissioned officer, the President alone may reappoint him to the grade and position on the retired list held when his name was dropped from the rolls.

**SEC. 8320. OFFENSE OR VIOLATION COMMITTED IN COMPLIANCE WITH ORDERS.**—When it is established by satisfactory evidence that an individual—

(1) was convicted of an offense named by section 8312 of this title; or

(2) violated section 8314 or 8315 of this title;

as a result of proper compliance with orders issued, in a confidential relationship, by an agency or other authority of the Government of the United States or the government of the District of Columbia, the right to receive annuity or retired pay may not be denied.

**SEC. 8321. LIABILITY OF ACCOUNTABLE EMPLOYEES.**—An accountable employee may not be held responsible for a payment made in violation of this subchapter when the payment made is in due course and without fraud, collusion, or gross negligence.

**SEC. 8322. EFFECT ON OTHER STATUTES.**—This subchapter does not restrict authority under a statute, other than this subchapter, to deny or withhold benefits authorized by statute.

**SEC. 8311. DEFINITIONS.**—For the purpose of this subchapter—

(1) “employee” means—

(A) an employee as defined by section 2105 of this title;

(B) a Member of Congress as defined by section 2106 of this title and a Delegate to Congress;

(C) a member or former member of a uniformed service; and

(D) an individual employed by the government of the District of Columbia;

(2) “annuity” means a retirement benefit, including a disability insurance benefit and a dependent’s or survivor’s benefit under subchapter II of chapter 7 of title 42, and a monthly annuity under section 228b or 228e of title 45, payable by an agency of the Government of the United States or the government of the District of Columbia on the basis of service as a civilian employee and other service which is creditable to an employee toward the benefit under the statute, regulation, or agreement which provides the benefit, but does not include—

(A) a benefit provided under statutes administered by the Veterans’ Administration;

(B) pay or compensation which may not be diminished under section 1 of Article III of the Constitution of the United States;

(C) that portion of a benefit payable under subchapter II of chapter 7 of title 42 which would be payable without taking into account, for any of the purposes of

that subchapter, including determinations of periods of disability under section 416(i) of title 42, pay for services as an employee;

(D) monthly annuity awarded under section 228b or 228e of title 45 before September 26, 1961, whether or not computed under section 228c(e) of title 45;

(E) that portion of an annuity awarded under section 228b or 228e of title 45 after September 25, 1961, which would be payable without taking into account military service creditable under section 228c-1 of title 45;

(F) a retirement benefit, including a disability insurance benefit and a dependent's or survivor's benefit under subchapter II of chapter 7 of title 42, awarded before September 1, 1954, to an individual or his survivor or beneficiary, insofar as the individual, before September 1, 1954—

(i) was convicted of an offense named by subsection (b) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8314 or 8315(a) (1) of this title; or

(G) a retirement benefit, including a disability insurance benefit and a dependent's or survivor's benefit under subchapter II of chapter 7 of title 42, awarded before September 26, 1961, to an individual or his survivor or beneficiary, insofar as the individual, before September 26, 1961—

(i) was convicted of an offense named by subsection (c) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8315(a) (2) of this title; and

(3) "retired pay" means retired pay, retirement pay, retainer pay, or equivalent pay, payable under a statute to a member or former member of a uniformed service, and an annuity payable to an eligible beneficiary of the member or former member under chapter 73 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), but does not include—

(A) a benefit provided under statutes administered by the Veterans' Administration;

(B) retired pay, retirement pay, retainer pay, or equivalent pay, awarded before September 1, 1954, to an individual, insofar as the individual, before September 1, 1954—

(i) was convicted of an offense named by subsection (b) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8314 or 8315(a) (1) of this title;

(C) retired pay, retirement pay, retainer pay, or equivalent pay, awarded before September 26, 1961, to



an individual, insofar as the individual, before September 26, 1961—

(i) was convicted of an offense named by subsection (c) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8315(a) (2) of this title; or

(D) an annuity payable to an eligible beneficiary of an individual under chapter 73 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), if the annuity was awarded to the beneficiary, or if retired pay was awarded to the individual, before September 26, 1961, insofar as the individual, on the basis of whose service the annuity was awarded, before September 26, 1961—

(i) was convicted of an offense named by section 8312 of this title, to the extent provided by that section; or

(ii) violated section 8314 or 8315 of this title.

#### EXPATRIATION ACT OF 1954

Act of September 3, 1954 (68 Stat. 1146; 8 U.S.C. 1481(a) (9)—*Expatriation Act of 1954*:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the “Expatriation Act of 1954”.

SEC. 2. Paragraph (9) of subsection (a) of section 349 of the Immigration and Nationality Act (66 Stat. 163, 268; 8 U.S.C. 1481 (a) (9)) is amended to read as follows:

(9) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of section 2383 of title 18, United States Code, or willfully performing any act in violation of section 2385 of title 18, United States Code, or violating section 2384 of said title by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction; or.

#### ESPIONAGE AND SABOTAGE ACT OF 1954

Act of September 3, 1954 (68 Stat. 1216); 18 U.S.C. 2151—*Espionage and Sabotage Act of 1954*:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act, divided into titles and sections, may be cited as the “Espionage and Sabotage Act of 1954”.

## TITLE I—WAR AND DEFENSE MATERIALS, PREMISES AND UTILITIES

SEC. 101. Section 2151 of title 18, United States Code, is amended to read as follows:

### § 2151. Definitions.

As used in this chapter:

The words "war material" include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, air, water, food, foodstuffs, fuel supplies, munitions, and all articles, parts or ingredients, intended for, adapted to, or suitable for the use of the United States or any associate nation, in connection with the conduct of war or defense activities.

The words "war premises" include all buildings, grounds, mines, or other places wherein such war material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States, or any associate nation.

The words "war utilities" include all railroads, railways, electric lines, roads of whatever description, any railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances thereof, or any other means of transportation whatsoever, whereon or whereby such war material or any troops of the United States, or of any associate nation, are being or may be transported either within the limits of the United States or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, structures and buildings, whereby or in connection with which air, water or gas is being furnished, or may be furnished, to any war premises or to the Armed Forces of the United States, or any associate nation, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures, and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply air, water, light, heat, power, or facilities of communication to any war premises or to the Armed Forces of the United States or any associate nation.

The words "associate nation" means any nation at war with any nation with which the United States is at war.

The words "national-defense material" include arms, armament, ammunitions, livestock, forage, forest products and standing timber, stores of clothing, air, water, food, foodstuffs, fuel, supplies, munitions, and all other articles of whatever description and any part or ingredient thereof, intended for, adapted to, or suitable for the use of the United States in connection with the national defense or for use in or in connection with the producing, manufacturing, repairing, storing, mining, extracting,

distributing, loading, unloading, or transporting of any of the materials or other articles hereinbefore mentioned or any part or ingredient thereof.

The words "national-defense premises" include all buildings, grounds, mines, or other places wherein such national-defense material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other installations of the Armed Forces of the United States.

The words "national-defense utilities" include all railroads, railways, electric lines, roads of whatever description, railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, buildings, structure, engine, machine, mechanical contrivance, car, vehicle, boat, aircraft, airfields, air lanes, and fixtures or appurtenances thereof, or any other means of transportation whatsoever, whereon or whereby such national-defense material, or any troops of the United States, are being or may be transported either within the limits of the United States or upon the high seas or elsewhere; and all air-conditioning systems, dams, reservoirs, aqueducts, water and gas mains and pipes, structures, and buildings, whereby or in connection with which air, water, or gas may be furnished to any national-defense premises or to the Armed Forces of the United States, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply air, water, light, heat, power, or facilities of communication to any national-defense premises or to the Armed Forces of the United States.

SEC. 102. Section 2153 of title 18, United States Code, is amended to read as follows:

§ 2153. Destruction of war materials, war premises, or war utilities.

(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any war material, war premises, or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

SEC. 103. Section 2154 of title 18, United States Code, is amended to read as follows:

§ 2154. Production of defective war material, war premises, or war utilities.

(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully makes, constructs, or causes to be made or constructed in a defective manner, or attempts to make, construct, or cause to be made or constructed in a defective manner any war material, war premises, or war utilities, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material, war premises or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

SEC. 104. Section 2155 of title 18, United States Code, is amended to read as follows:

§ 2155. Destruction of national-defense materials, national defense premises or national-defense utilities.

(a) Whoever, with intent to injure, interfere with, or obstruct the national defense of the United States, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any national-defense materials, national-defense premises, or national-defense utilities, shall be fined not more than \$10,000 or imprisoned not more than ten years or both.

(b) If two or more persons conspire to violate this section and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

SEC. 105. Section 2156 of title 18, United States Code, is amended to read as follows:

§ 2156. Production of defective national-defense material, national-defense premises or national-defense utilities.

(a) Whoever, with intent to injure, interfere with, or obstruct the national defense of the United States, willfully, makes, constructs, or attempts to make or construct in a defective manner, any national-defense material, national-defense premises or national-defense utilities, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such national-defense material, national-defense premises or national-defense utilities, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

## TITLE II—DISCLOSURE OF INFORMATION RELATING TO NATIONAL DEFENSE

SEC. 201. Section 794 of title 18, United States Code, is amended to read as follows:

(a) Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by death or by imprisonment for any term of years or for life.

(b) Whoever, in time of war, with intent that the same shall be communicated to the enemy, collects, records, publishes, or communicates, or attempts to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the Armed Forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for any term of years or for life.

(c) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

### CARRYING OF FIREARMS BY CERTAIN STATE DEPARTMENT OFFICERS

Act of June 28, 1955 (69 Stat. 188, c. 199; 22 U.S.C. 2666)—

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That, under such regulations as the Secretary of State may prescribe, security officers of the Department of State and the Foreign Service who have been designated by the Secretary of State and who have qualified for the use of firearms, are authorized to carry firearms for the purpose of protecting heads of foreign states, high officials of foreign governments and other distinguished visitors to the



United States, the Secretary of State, and the Under Secretary of State, and official representatives of foreign governments and of the United States attending international conferences, or performing special missions.

### COMMUNIST CHINA NOT RECOGNIZED

Act of July 8, 1955 (69 Stat. 290 § 12)—*Mutual Security Act of 1955*:

SEC. 12. It is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations.

Act of July 31, 1956 (70 Stat. 735 § 108)—*Mutual Security Appropriation Act, 1957*:

SEC. 108. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of September 3, 1957 (71 Stat. 604 § 109)—*Mutual Security Appropriation Act, 1958*:

SEC. 109. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of August 28, 1958 (72 Stat. 1101 § 105):

SEC. 105. The Congress hereby reiterates its opposition to the

seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of July 13, 1959 (73 Stat. 186 § 105)—*Department of State Appropriation Act, 1960*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of September 28, 1959 (73 Stat. 720 § 112)—*Mutual Security Appropriation Act, 1960*:

The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations, which he may have with respect to the matter.

Act of August 31, 1960 (74 Stat. 561)—*Department of State Appropriation Act, 1961*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of September 2, 1960 (74 Stat. 779)—*Mutual Security and Related Agencies Appropriation Act, 1961*:

SEC. 107. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In

the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of September 21, 1961 (75 Stat. 550)—*Department of State Appropriation Act, 1962*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of September 30, 1961 (75 Stat. 718)—*Foreign Assistance and Related Agencies Appropriation Act, 1962*:

SEC. 107. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of October 18, 1962 (76 Stat. 1085)—*Department of State Appropriation Act, 1963*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of October 23, 1962 (76 Stat. 1164)—*Foreign Aid and Related Agencies Appropriation Act, 1963*:

SEC. 105. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign

relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of December 30, 1963 (77 Stat. 781)—*Department of State Appropriation Act, 1964*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of January 6, 1964 (77 Stat. 858)—*Foreign Aid and Related Agencies Appropriation Act, 1964*:

SEC. 105. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of August 31, 1964 (78 Stat. 716)—*Department of State Appropriation Act, 1965*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of October 7, 1964 (78 Stat. 1017)—*Foreign Assistance and Related Agencies Appropriation Act, 1965*:

SEC. 105. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of September 2, 1965 (79 Stat. 625)—*Department of State Appropriation Act, 1966*:



SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of October 20, 1965 (79 Stat. 1003)—*Foreign Assistance and Related Agencies Appropriation Act, 1966*:

SEC. 105. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of October 15, 1966 (80 Stat. 1020)—*Foreign Assistance and Related Agencies Appropriation Act, 1967*:

SEC. 105. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of the Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations the President is requested to inform the Congress insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of November 8, 1966 (80 Stat. 1484)—*Department of State Appropriation Act, 1967*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of January 2, 1968 (82 Stat. 672)—*Department of State Appropriation Act, 1969*:

SEC. 105. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obliga-



tions contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress, insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of August 9, 1968 (82 Stat. 672)—*Department of State Appropriation Act, 1969*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of October 17, 1968 (82 Stat. 1139)—*Foreign Assistance and Related Agencies Appropriation Act, 1969*:

SEC. 105. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the Congress, insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of December 24, 1969 (83 Stat. 407)—*Department of State Appropriation Act, 1970*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

Act of February 9, 1970 (84 Stat. 7)—*Foreign Assistance and Related Programs Appropriation Act, 1970*:

SEC. 105. The Congress hereby reiterates its opposition to the seating in the United Nations of the Communist China regime as the representative of China, and it is hereby declared to be the continuing sense of Congress that the Communist regime in China has not demonstrated its willingness to fulfill the obligations contained in the Charter of the United Nations and should not be recognized to represent China in the United Nations. In the event of the seating of representatives of the Chinese Communist regime in the Security Council or General Assembly of the United Nations, the President is requested to inform the

Congress, insofar as is compatible with the requirements of national security, of the implications of this action upon the foreign policy of the United States and our foreign relationships, including that created by membership in the United Nations, together with any recommendations which he may have with respect to the matter.

Act of October 21, 1970 (84 Stat. 1044)—*Department of State Appropriation Act, 1971*:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

#### ATOMIC WEAPONS REWARDS ACT

Act of July 15, 1955 (69 Stat. 365, 50 U.S.C. 47a-47f)—*Atomic Weapons Rewards Act of 1955*:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Atomic Weapons Rewards Act of 1955".

SEC. 2. Any person who furnishes original information to the United States—

(a) leading to the finding or other acquisition by the United States of any special nuclear material or atomic weapon which has been introduced into the United States, or which has been manufactured or acquired therein contrary to the laws of the United States, or

(b) with respect to an attempted introduction into the United States or an attempted manufacture or acquisition therein of any special nuclear material or atomic weapon, contrary to the laws of the United States,

shall be rewarded by the payment of an amount not to exceed \$500,000.

SEC. 3. An Awards Board consisting of the Secretary of the Treasury (who shall be the Chairman), the Secretary of Defense, the Attorney General, the Director of Central Intelligence, and of one member of the Atomic Energy Commission designated by that Commission, shall determine whether any person furnishing information to the United States is entitled to any award and the amount thereof to be paid pursuant to section 2. In determining whether any person furnishing information to the United States is entitled to an award and the amount of such award, the Board shall take into consideration—

(a) whether or not the information is of the type specified in section 2, and

(b) whether the person furnishing the information was an officer or employee of the United States and, if so, whether the furnishing of such information was in the line of duty of that person.

Any reward of \$50,000 or more shall be approved by the President.

SEC. 4. If the information leading to an award under section 3 is furnished by an alien, the Secretary of State, the Attorney General, and the Director of Central Intelligence, acting jointly, may determine that the entry of such alien into the United States is in the public interest and, in that event, such alien and the members of his immediate family may receive immigrant visas and may be admitted to the United States for permanent residence, notwithstanding the requirements of the Immigration and Nationality Act.

SEC. 5. The Board established under section 3 is authorized to hold such hearings and make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this Act.

SEC. 6. Any awards granted under section 3 of this Act shall be certified by the Awards Board and, together with the approval of the President in those cases where such approval is required, transmitted to the Director of Central Intelligence for payment out of funds appropriated or available for the administration of the National Security Act of 1947, as amended.

SEC. 7. As used in this Act—

(a) The term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

(b) The term "atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(c) The term "special nuclear material" means plutonium, or uranium enriched in the isotope 233 or in the isotope 235, or any other material which is found to be special nuclear material pursuant to the provisions of the Atomic Energy Act of 1954.

(d) The term "United States," when used in a geographical sense, includes Puerto Rico, all Territories and possessions of the United States and the Canal Zone; except that in section 4, the term "United States" when so used shall have the meaning given to it in the Immigration and Nationality Act.

#### INTERNATIONAL CLAIMS SETTLEMENT

Act of August 9, 1955 (69 Stat. 574 § 312; P.L. 285, 84th Cong.)—  
*Collaborators with hostile countries:*

SEC. 312. No award shall be made under this title to or for the benefit of any person who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any government hostile to the United States during World War II, or who has been convicted of a violation of any provision of chapter 115, of [code] title 18, of the United States Code, or of any other crime involving disloyalty to the United States.

## PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

Executive Order 11460 of March 20, 1969 (34 FR 5535)—*Establishing the President's Foreign Intelligence Advisory Board*:

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. There is hereby established the President's Foreign Intelligence Advisory Board, hereinafter referred to as "the Board". The Board shall:

(1) advise the President concerning the objectives, conduct, management and coordination of the various activities making up the overall national intelligence effort;

(2) conduct a continuing review and assessment of foreign intelligence and related activities in which the Central Intelligence Agency and other Government departments and agencies are engaged;

(3) receive, consider and take appropriate action with respect to matters identified to the Board, by the Central Intelligence Agency and other Government departments and agencies of the intelligence community, in which the support of the Board will further the effectiveness of the national intelligence effort; and

(4) report to the President concerning the Board's findings and appraisals, and make appropriate recommendations for actions to achieve increased effectiveness of the Government's foreign intelligence effort in meeting national intelligence needs.

SEC. 2. In order to facilitate performance of the Board's functions, the Director of Central Intelligence and the heads of all other departments and agencies shall make available to the Board all information with respect to foreign intelligence and related matters which the Board may require for the purpose of carrying out its responsibilities to the President in accordance with the terms of this Order. Such information made available to the Board shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and regulations.

SEC. 3. Members of the Board shall be appointed by the President from among persons outside the Government, qualified on the basis of knowledge and experience in matters relating to the national defense and security, or possessing other knowledge and abilities which may be expected to contribute to the effective performance of the Board's duties. The members of the Board shall receive such compensation and allowances, consonant with law, as may be prescribed hereafter.

SEC. 4. The Board shall have a staff headed by an Executive Secretary, who shall be appointed by the President and shall receive such compensation and allowances, consonant with law, as may be prescribed by the Board. The Executive Secretary shall be authorized, subject to the approval of the Board and consonant with law, to appoint and fix the compensation of such personnel as may be necessary for performance of the Board's duties.

SEC. 5. Compensation and allowances of the Board, the Executive Secretary, and members of the staff, together with other expenses arising in connection with the work of the Board, shall be paid from the appropriation appearing under the heading "Special Projects" in the Executive Office Appropriation Act, 1969, Public Law 90-350, 82 Stat. 195, and, to the extent permitted by law, from any corresponding appropriation which may be made for subsequent years. Such payments shall be made without regard to the provisions of section 3681 of the Revised Statutes and section 9 of the Act of March 4, 1909, 35 Stat. 1027 (31 U.S.C. 672 and 673).

SEC. 6. Executive Order No. 10938 of May 4, 1961, is hereby revoked.

#### DISPERSAL OF INDUSTRIAL FACILITIES

Act of June 29, 1956 (70 Stat. 408, 50 U.S.C. App. 2062) :

SEC. 4. Section 2 of the Defense Production Act of 1950, as amended, is hereby amended by inserting at the end thereof the following new paragraph :

In order to insure productive capacity in the event of such an attack on the United States, it is the policy of the Congress to encourage the geographical dispersal of the industrial facilities of the United States in the interest of the national defense, and to discourage the concentration of such productive facilities within limited geographical areas which are vulnerable to attack by an enemy of the United States. In the construction of any Government-owned industrial facilities, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facilities, and in the procurement of goods and services, under this or any other Act, each department and agency of the Executive Branch shall apply, under the coordination of the Office of Defense Mobilization, when maintaining a sound economy, the principle of the geographical dispersal of such facilities in the interest of national defense. Nothing contained in this paragraph shall preclude the use of existing industrial facilities.

#### EFFECT ON SOCIAL SECURITY BENEFITS OF CONVICTION OF SUBVERSIVE ACTIVITIES OR MEMBERSHIP IN CERTAIN ORGANIZATIONS

Act of August 1, 1956 (70 Stat. 838 § 121) amended the Social Security Act by adding the following provisions :

42 U.S.C. 402 (u) (1)—*Conviction of subversive activities, etc.:*

If any individual is convicted of any offense (committed after August 1, 1956) under—

(A) chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of Title 18, or

(B) section 783, 822, or 823 of Title 50,

then the court may, in addition to all other penalties provided by law, impose a penalty that in determining whether any monthly



insurance benefit under this section or section 423 of this title is payable to such individual for the month in which he is convicted or for any month thereafter, and determining the amount of any such benefit payable to such individual for any such month, and in determining whether such individual is entitled to insurance benefits under part A of subchapter XVIII of this chapter for any such month, there shall not be taken into account—

(C) any wages paid to such individual or to any other individual in the calendar quarter in which such conviction occurs or in any prior calendar quarter, and

(D) any net earnings from self-employment derived by such individual or by any other individual during a taxable year in which such conviction occurs or during any prior taxable year.

(2) As soon as practicable after an additional penalty has, pursuant to paragraph (1) of this subsection, been imposed with respect to any individual, the Attorney General shall notify the Secretary of such imposition.

(3) If any individual with respect to whom an additional penalty has been imposed pursuant to paragraph (1) of this subsection is granted a pardon of the offense by the President of the United States, such additional penalty shall not apply for any month beginning after the date on which such pardon is granted.

42 U.S.C. 410(a) (17)—*Employment*:

(a) The term "employment" means any service performed after 1936 and prior to 1951 which was employment for the purposes of this subchapter under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either, (i) within the United States, or (ii) on or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the employee is employed on the vessel or aircraft it touches at a port in the United States, if the employee is employed on and in connection with such vessel or aircraft when outside the United States, or (B) outside the United States by a citizen of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign subsidiary (as defined in section 3121(7) of Title 26, Internal Revenue Code of 1954) of a domestic corporation (as determined in accordance with section 7701 of Title 26, Internal Revenue Code of 1954) during any period for which there is in effect an agreement, entered into pursuant to section 3121(7) of Title 26, Internal Revenue Code of 1954, with respect to such subsidiary; except that, in the case of service performed after 1950, such term shall not include—

\* \* \* \* \*

(17) Service in the employ of any organization which is performed (A) in any quarter during any part of which such organi-

zation is registered, or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, under the Internal Security Act of 1950, as amended, as a Communist-action organization, a Communist-front organization, or a Communist-infiltrated organization, and (B) after June 30, 1956;

Act of July 30, 1965 (79 Stat. 103) as last amended by Act of January 2, 1968 (81 Stat. 854 § 403(h)); 42 U.S.C. 426a(b) (1) <sup>68</sup>—*Transitional provision on eligibility of uninsured individuals for hospital insurance benefits:*

(b) Persons ineligible.

The provisions of subsection (a) of this section shall not apply to any individual who—

(1) is, at the beginning of the first month in which he meets the requirements of subsection (a), a member of any organization referred to in section 410(a) (17) of this title.

#### REGISTRATION OF PERSONS WITH KNOWLEDGE OF ESPIONAGE TACTICS

Act of August 1, 1956 (70 Stat. 899), as amended by Act of October 18, 1962 (76A Stat. 700); 50 U.S.C. 851:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 20 of the Internal Security Act of 1950 is amended by repealing subsection (a), and by deleting the designation "(b)" which appears in said section.

SEC. 2. Except as provided in section 3 of this Act, every person who has knowledge of, or has received instruction or assignment in, the espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, shall register with the Attorney General by filing with the Attorney General a registration statement in duplicate, under oath, prepared and filed in such manner and form, and containing such statements, information, or documents pertinent to the purposes and objectives of this Act as the Attorney General, having due regard for the national security and the public interest, by regulations prescribes.

SEC. 3. The registration requirements of section 2 of this Act do not apply to any person—

(a) who has obtained knowledge of or received instruction or assignment in the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party by reason of civilian, military, or police service or employment with the United States Government, the governments of the several States, their political subdivisions, the District of Columbia, the Territories, or the Canal Zone;

(b) who has obtained such knowledge solely by reason of

<sup>68</sup> The provision of sec. (b) (1) of this section denying benefits to members of organizations required to register under the Internal Security Act of 1950 (50 U.S.C. 781 et seq.), as well as use of question inquiring of applicants whether they were members of such organization, are unconstitutional as violative of the freedoms of speech, assembly and association guaranteed by the First Amendment. *Reed v. Gardner*, 261 F. Supp. 87 (D. Cal. 1966).

academic or personal interest not under the supervision of or in preparation for service with the government of a foreign country or a foreign political party;

(c) who has made full disclosure of such knowledge, instruction, or assignment to officials within an agency of the United States Government having responsibilities in the field of intelligence, which disclosure has been made a matter of record in the files of such agency, and concerning whom a written determination has been made by the Attorney General or the Director of Central Intelligence that registration would not be in the interest of national security;

(d) whose knowledge of, or receipt of instruction or assignment in, the espionage, counterespionage, or sabotage service or tactics of a government of a foreign country or of a foreign political party, is a matter of record in the files of an agency of the United States Government having responsibilities in the field of intelligence and concerning whom a written determination is made by the Attorney General or the Director of Central Intelligence, based on all information available, that registration would not be in the interest of national security;

(e) who is a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State, while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer, and any member of his immediate family who resides with him;

(f) who is an official of a foreign government recognized by the United States, whose name and status and the character of whose duties as such official are of record in the Department of State, and while he is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official, and any member of his immediate family who resides with him;

(g) who is a member of the staff of or employed by a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, and whose name and status and the character of whose duties as such member or employee are a matter of record in the Department of State, while he is engaged exclusively in the performance of activities recognized by the Department of State as being within the scope of the functions of such member or employee;

(h) who is an officially acknowledged and sponsored representative of a foreign government and is in the United States on an official mission for the purpose of conferring or otherwise cooperating with United States intelligence or security personnel;

(i) who is a civilian or one of the military personnel of a foreign armed service coming to the United States pursuant

to arrangements made under a mutual defense treaty or agreement, or who has been invited to the United States at the request of an agency of the United States Government; or

(j) who is a person designated by a foreign government to serve as its representative in or to an international organization in which the United States participates or is an officer or employee of such an organization or who is a member of the immediate family of, and resides with, such a representative, officer, or employee.

SEC. 4. The Attorney General shall retain in permanent form one copy of all registration statements filed under this Act. They shall be public records and open in public examination at such reasonable hours and under such regulations as the Attorney General prescribes, except that the Attorney General, having due regard for the national security and public interest, may withdraw any registration statement from public examination.

SEC. 5. The Attorney General may at any time, make, prescribe, amend, and rescind such rules, regulations, and forms as he deems necessary to carry out the provisions of this Act.

SEC. 6. (a) Whoever willfully violates any provision of this Act or any regulation thereunder, or in any registration statement willfully makes a false statement of a material fact or willfully omits any material fact, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(b) Any alien convicted of a violation of this Act or any regulation thereunder is subject to deportation in the manner provided by chapter 5, title II, of the Immigration and Nationality Act (66 Stat. 163).

SEC. 7. Failure to file a registration statement as required by this Act is a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

SEC. 8. Compliance with the registration provisions of this Act does not relieve any person from compliance with any other applicable registration statute.

SEC. 9. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, is not affected thereby.

SEC. 10. This Act applies to and within the Canal Zone.

*Registration of Certain Persons Having Knowledge of Foreign Espionage, Counterespionage, or Sabotage Matters under the Act of August 1, 1956; Regulations issued August 8, 1956 by authority of Act of August 1, 1956 (70 Stat. 899; 50 U.S.C. 851 et seq.). 28 C.F.R. 12.1-12.70:*

§ 12.1 *Definitions.* As used in this part, unless the context otherwise requires:

(a) The term "act" means the act of August 1, 1956, Public Law 893, 84th Congress, 2d Session, requiring the registration of certain persons who have knowledge of, or have received instruc-

tion or assignment in the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party.

(b) The term "Attorney General" means the Attorney General of the United States.

(c) The term "rules and regulations" refers to all rules, regulations, registration forms, and instruction to forms made and prescribed by the Attorney General pursuant to the act.

(d) The term "registration statement" means the registration required to be filed with the Attorney General under section 2 of the act.

(e) The term "registrant" means the person by whom a registration statement is filed pursuant to the provisions of the act.

§ 12.2 *Administration of act.* The administration of the act is assigned to the Registration Section of the Internal Security Division, Department of Justice. Communications with respect to the act shall be addressed to the Registration Section, Department of Justice, Washington, D.C. 20530. Copies of the act, the regulations contained in this part, including the forms mentioned therein, may be obtained upon request without charge.

§ 12.3 *Prior registration with the Foreign Agent Registration Section.* No person who has filed a registration statement under the terms of the Foreign Agents Registration Act of 1938, as amended by section 20 (a) of the Internal Security Act of 1950, shall be required to file a registration statement under the act, unless otherwise determined by the Chief, Registration Section.

§ 12.4 *Inquiries concerning application of act.* Inquiries concerning the application of the act must be accompanied by a detailed statement of all facts necessary for a determination of the question submitted, including the identity of the person on whose behalf the inquiry is made, the facts which may bring such person within the registration provisions of the act, and the identity of the foreign government or foreign political party concerned.

§ 12.20 *Filing of registration statement.* Registration statements shall be filed in duplicate with the Registration Section, Department of Justice, Washington, D.C. Filing may be made in person or by mail and shall be deemed to have taken place upon the receipt thereof by the Registration Section.

§ 12.21 *Time within which registration statement must be filed.* Every person who is or becomes subject to the registration provisions of the act after its effective date shall file a registration statement within fifteen days after the obligation to register arises.

§ 12.22 *Material contents of registration statement.* The registration statement shall include the following, all of which shall be regarded as material for the purposes of the act:

(a) The registrant's name, principal business address, and all other business addresses in the United States or elsewhere, and all residence addresses.



(b) The registrant's citizenship status and how such status was acquired.

(c) A detailed statement setting forth the nature of the registrant's knowledge of the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party, and the manner in which, place where, and date when such knowledge was obtained.

(d) A detailed statement as to any instruction or training received by the registrant in the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party, including a description of the type of instruction or training received, a description of any courses taken, the dates when such courses commenced and when they ceased, and the name and official title of the instructor or instructors under whose supervision the courses were received as well as the name and location of schools and other institutions attended, the dates of such attendance, and the names of the directors of the schools and institutions attended.

(e) A detailed statement describing any assignment received in the espionage, counterespionage, or sabotage service or tactics of a foreign government or foreign political party, including the type of assignment, the date when each assignment began, the date of completion of each assignment, name and title of the person or persons under whose supervision the assignment was executed, and a complete description of the nature of the assignment and the execution thereof.

(f) A detailed statement of any relationship which may exist at the time of registration, other than through employment, between the registrant and any foreign government or foreign political party.

(g) Such other statements, information, or documents pertinent to the purposes and objectives of the act as the Attorney General, having due regard for the national security and the public interest, may require by this part of amendments thereto.

§ 12.23 *Deficient registration statement.* A registration statement which is determined to be incomplete, inaccurate, misleading, or false, by the Chief Registration Section, may be returned by him to the registrant as being unacceptable for filing under the terms of the act.

§ 12.24 *Forms.* (a) Every person required to register under the act shall file a registration statement on Form GA-1, and such other forms as may from time to time be prescribed by the Attorney General.

(b) Matter contained in any part of the registration statement or other document may not be incorporated by reference as answer, or partial answer, to any other item in the registration statement required to be filed under the act.

(c) Except as specifically provided otherwise, if any item on the form is inapplicable, or the answer is "None," an express statement to such effect shall be made.

(d) Every statement, amendment, and every duplicate there-

of, shall be executed under oath and shall be sworn to before a notary public or other officer authorized to administer oaths.

(e) A registration statement or amendment thereof required to be filed shall, if possible, be typewritten, but will be regarded as in substantial compliance with this regulation if written legibly in black ink.

(f) Riders shall not be used. If the space on the registration statement or other form is insufficient for any answer, reference shall be made in the appropriate space to a full insert page or pages on which the item number and item shall be restated and the complete answer given.

§ 12.25 *Amended registration statement.* (a) An amended registration statement may be required by the Chief, Registration Section, of any person subject to the registration provisions of the act whose original registration statement filed pursuant thereto is deemed to be incomplete, inaccurate, false, or misleading.

(b) Amendments shall conform in all respects to the regulations herein prescribed governing execution and filing of original registration statements.

(c) Amendments shall in every case make appropriate reference by number or otherwise to the items in original registration statements to which they relate.

(d) Amendments shall be deemed to have been filed upon the receipt thereof by the Registration Section.

(e) Failure of the Chief, Registration Section, to request any person described in section 2 of the act to file an amended registration statement shall not preclude prosecution of such person for a willfully false statement of a material fact, the willful omission of a material fact, or the willful omission of a material fact necessary to make the statements therein not misleading, in an original registration statement.

§ 12.30 *Burden of establishing availability of exemptions.* In all matters pertaining to exemptions, the burden of establishing the availability of the exemption shall rest with the person for whose benefit the exemption is claimed.

§ 12.40 *Public examination.* Registration statements shall be available for public examination at the offices of the Registration Section, Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530, from 10:00 a.m. to 4:00 p.m. on each official business day, except to the extent that the Attorney General, having due regard for the national security and public interest, may withdraw such statements from public examination.

§ 12.41 *Photocopies.* (a) Photocopies of registration statements filed in accordance with section 2 of the act are available to the public upon payment of fifty cents per photocopy of each page, whether several copies of a single original page or one or more copies of several original pages are ordered.

(b) Estimates as to prices for photocopies and the time required for their preparation will be furnished upon request addressed to the Registration Section, Department of Justice, Washington, D.C. 20530.

(c) Payment shall accompany the order for photocopies and shall be made in cash, or by United States money order, or by certified bank check payable to the Treasurer of the United States. Postage stamps will not be accepted.

§ 12.70 *Partial compliance not deemed compliance.* The fact that a registration statement has been filed shall not necessarily be deemed a full compliance with the act on the part of the registrant; nor shall it preclude prosecution, as provided for in the act, for willful failure to file a registration statement, or for a willfully false statement of a material fact therein, or for the willful omission of a material fact required to be stated therein.

#### CITIZENSHIP REQUIREMENT—BUYERS OF WAR-BUILT VESSELS

Act of August 3, 1956 (70 Stat. 957)—*Sale of certain war-built vessels:*

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) notwithstanding the provisions of section 11 of the Merchant Ship Sales Act of 1946, as amended, and section 510(h) of the Merchant Marine Act, 1936, as amended, the Secretary of Commerce is authorized to sell within one year after the enactment of this joint resolution to the highest responsible bidder who is a citizen of the United States, within the meaning of section 2 of the Shipping Act, 1916, as amended, for employment on essential trade routes 3 and 4 to Cuba and Mexico, any two war-built vessels, under the jurisdiction of the Secretary of Commerce, on an as is, where is, basis, provided that the Secretary of Commerce shall determine before entering into such sales that the purchaser possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain the vessels in service on that portion of essential trade routes 3 and 4 between Atlantic Coast ports of the United States and Cuba and Mexico and to maintain adequate service on such portion of such routes. The upset prices of the vessels shall be their sales prices computed under the Merchant Ship Sales Act of 1946, as of January 15, 1951, depreciated (after reduction for residual value) on a straight line basis for the period from January 15, 1951, to the date of execution of the contract of sale, on the basis of the portion of a twenty-year useful life of the vessels remaining after January 15, 1951.

#### UNIFORM CODE OF MILITARY JUSTICE

Act of August 10, 1956 (70 A. Stat. 36 ch. 1041; 10 U.S.C. 801-940):

Article 43 (10 U.S.C. 843)—*Statute of Limitations.*

(a) A person charged with desertion or absence without leave in time of war, or with aiding the enemy, mutiny, or murder, may be tried and punished at any time without limitation.

Article 71 (10 U.S.C. 871)—*Execution of Sentence.*

(a) No court-martial sentence extending to death or involving a general or flag officer may be executed until approved by the

President. He shall approve the sentence or such part, amount, or commuted form of the sentence, as he sees fit, and may suspend the execution of the sentence or any part of the sentence, as approved by him, except a death sentence.

(b) No sentence extending to the dismissal of a commissioned officer (other than a general or flag officer), cadet, or midshipman may be executed until approved by the Secretary concerned, or such Under Secretary or Assistant Secretary as may be designated by him. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of any part of the sentence as approved by him. In time of war or national emergency he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six months thereafter.

(c) No sentence which includes, unsuspended, a dishonorable or bad-conduct discharge, or confinement for one year or more, may be executed until affirmed by a Court of Military Review and, in cases reviewed by it, the Court of Military Appeals.

(d) All other court-martial sentences, unless suspended or deferred, may be ordered executed by the convening authority when approved by him. The convening authority may suspend the execution of any sentence, except a death sentence.

#### Article 81 (10 U.S.C. 881)—*Conspiracy*.

Any person subject to this chapter who conspires with any other person to commit an offense under this chapter shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

#### Article 82 (10 U.S.C. 882)—*Solicitation*.

(a) Any person subject to this chapter who solicits or advises another or others to desert in violation of section 885 of this [code] title (article 85) or mutiny in violation of section 894 of this [code] title (article 94) shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of section 899 of this [code] title (article 99) or sedition in violation of section 894 of this [code] title (article 94) shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall be punished as a court-martial may direct.

#### Article 94 (10 U.S.C. 894)—*Mutiny or sedition*.

(a) Any person subject to this chapter who—

(1) with intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

(2) with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition.

(3) fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished by death or such other punishment as a court-martial may direct.

Article 104 (U.S.C. 904)—*Aiding the Enemy.*

Any person who—

(1) aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly;

shall suffer death or such other punishment as a court-martial or military commission may direct.

Article 106 (10 U.S.C. 906)—*Spies.*

Any person who in time of war is found lurking as a spy in or about any place, vessel, or aircraft, within the control or jurisdiction of any of the armed forces, or in or about any shipyard, any manufacturing or industrial plant, or any other place or institution engaged in work in aid of the prosecution of the war by the United States, or elsewhere, shall be tried by a general court-martial or by a military commission and on conviction shall be punished by death.

### INSURRECTION

Act of August 10, 1956 (70 Stat. 15-16 §§ 331-334, c. 1041; 10 U.S.C. §§ 331-334) :

SEC. 331. *Federal aid for State governments.*—Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal Service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

SEC. 332. *Use of militia and armed forces to enforce Federal authority.*—Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal



service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

SEC. 333. *Interference with State and Federal law.*—The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

SEC. 334. *Proclamation to disperse.*—Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time.

#### ARMING OF AMERICAN VESSELS

Act of August 10, 1956 (70 A. Stat. 16; 10 U.S.C. § 351):

SEC. 351. *During war or threat to national security.*—(a) The President, through any agency of the Department of Defense designated by him, may arm, have armed, or allow to be armed, any watercraft or aircraft that is capable of being used as a means of transportation on, over, or under water, and is documented, registered, or licensed under the laws of the United States.

(b) This section applied during a war and at any other time when the President determines that the security of the United States is threatened by the application, or the imminent danger of application, of physical force by any foreign government or agency against the United States, its citizens, the property of its citizens, or their commercial interest.

(c) Section 163 of [code] title 22 does not apply to vessels armed under this section.

#### ARMED FORCES

Act of August 10, 1956 (70 Stat. ch. 1041), as last amended by Act of January 2, 1968 (81 Stat. 753); 10 U.S.C.:

§ 502. Enlistment oath: who may administer.—Each person enlisting in an armed force shall take the following oath:

I, -----, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God.

This oath or affirmation may be taken before any commissioned officer of any armed force.

SEC. 1032. *Dual capacity: Reserve accepting employment with foreign government or concern.*—Subject to the approval of the Secretary concerned, a Reserve may accept civil employment with, and compensation therefor from, any foreign government or any concern that is wholly or partly controlled by a foreign government.

SEC. 1034. *Communicating with a member of Congress.*—No person may restrict any member of an armed force in communicating with a member of Congress, unless the communication is unlawful or violates a regulation necessary to the security of the United States.

SEC. 1584. *Laws relating to employment of non-citizens: not applicable to research and development activities.*—Laws prohibiting the employment of, or payment of compensation or expenses to, a person who is not a citizen of the United States do not apply to any expert, scientist, technician, or professional person whose employment in connection with the research and development activities of a military department is determined to be necessary by the Secretary of that department.

SEC. 1585. *Carrying of firearms.*—Under regulations to be prescribed by the Secretary of Defense, civilian officers and employees of the Department of Defense may carry firearms or other appropriate weapons while assigned investigative duties or such other duties as the Secretary may prescribe.

SEC. 3253. *Enlistment of aliens in time of peace.*

\* \* \* \* \*

(c) In time of peace, no person may be accepted for original enlistment in the Army unless he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under the applicable provisions of chapter 12 of title 8.

SEC. 7473. *Employment of aliens.*—Laws prohibiting payment of compensation to a person who is not a citizen of the United States do not apply to a person whose employment by the Department of the Navy is determined by the Secretary of the Navy to be necessary to obtain for the armed forces the benefits of the special technical or scientific knowledge or experience possessed by that person and not readily obtainable from a citizen.

## PUBLIC CONTRACTS

Act of August 10, 1956 (70 A. Stat. 124 c. 1041; 10 U.S.C. 2272(f))—  
*Encouragement of Aviation; Awarding of contracts:*

(f) No contract may be awarded under this section—

(1) to an individual who is not a citizen of the United States;

(2) to a corporation, unless 75 percent of its capital stock is owned by, and all its directors are, citizens of the United States; or

(3) to an individual or a corporation that does not have a manufacturing plant within the United States.

However, the Secretary of the military department concerned may contract with any domestic corporation whose stock is listed on a stock exchange, unless he knows that a majority of its stock is owned or controlled by aliens.

## ARMED FORCES PHYSICIANS IN ENLISTED RANK

Act of June 27, 1957 (71 Stat. 207 § 5), as extended to July 1, 1963 by Act of March 23, 1959 (73 Stat. 13 § 4):

SEC. 5. Section 5 of the Universal Military Training and Service Act (50 U.S.C. App. 455) is amended by adding the following new subsection at the end thereof:

(c) Notwithstanding any other provision of law, any qualified person who—

(1) is liable for induction; or

(2) as a member of a Reserve component is ordered to active duty,

as a physician, or dentist, or in an allied specialist category in the Armed Forces of the United States, shall, under regulations prescribed by the President, be appointed, reappointed, or promoted to such grade or rank as may be commensurate with his professional education, experience, or ability: *Provided*, That any person in a needed medical, dental, or allied specialist category who fails to qualify for, or who does not accept, a commission, or whose commission has been terminated, may be used in his professional capacity in an enlisted grade.

## CITIZENSHIP OF DIRECTORS OR TRUSTEES OF TRUST, LOAN, MORTGAGE, SAFE DEPOSIT AND TITLE CORPORATIONS IN THE DISTRICT OF COLUMBIA

Act of August 28, 1957 (71 Stat. 474), amending Act of March 3, 1901, 31 Stat. 1308 ch. 854 § 736; D.C. Code § 26-324, to read as follows:

The stock, property, and concerns of such company shall be managed by not less than nine nor more than thirty directors or trustees, who shall, respectively, be stockholders, and citizens of the United States, and at least two-thirds of whom shall reside in the District of Columbia or within one hundred miles of the location of the principal office of the company, and shall, except the

first year, be annually elected by the stockholders at such time and place and after such published notice as shall be determined by the bylaws of the company, and said directors or trustees shall hold until their successors are elected and qualified.

#### UNITED STATES EMPLOYMENT PRACTICES IN PANAMA

Act of July 25, 1958 (72 Stat. 408, § 8) :

##### SECURITY POSITIONS

SEC. 8. Notwithstanding any other provision of this Act but subject to regulations promulgated under section 15 (b) of this Act, the head of each department may designate any position under his jurisdiction as a position which for security reasons shall be filled by a citizen of the United States.

#### NATIONAL AERONAUTICS AND SPACE ACT OF 1958

Act of July 29, 1958 (72 Stat. 426; 42 U.S.C. 2455, 2473) :

##### EMPLOYMENT OF ALIENS

SEC. 203(b). In the performance of its functions the Administration is authorized—

(10) when determined by the Administrator to be necessary, and subject to such security investigations as he may determine to be appropriate, to employ aliens without regard to statutory provisions prohibiting payment of compensation to aliens;

##### ACCESS TO INFORMATION

SEC. 303. Information obtained or developed by the Administrator in the performance of his functions under this Act shall be made available for public inspection, except (A) information authorized or required by Federal statute to be withheld, and (B) information classified to protect the national security: *Provided*, That nothing in this Act shall authorize the withholding of information by the Administrator from the duly authorized committees of the Congress.

##### SECURITY

SEC. 304. (a) The Administrator shall establish such security requirements, restrictions, and safeguards as he deems necessary in the interest of the national security. The Administrator may arrange with the Civil Service Commission for the conduct of such security or other personnel investigations of the Administration's officers, employees, and consultants, and its contractors and subcontractors and their officers and employees, actual or prospective, as he deems appropriate; and if any such investigation develops any data reflecting that the individual who is the subject thereof is of questionable loyalty the matter shall be referred

to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Administrator.

(b) The Atomic Energy Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee, or prospective licensee of the Atomic Energy Commission or any other person authorized to have access to Restricted Data by the Atomic Energy Commission under subsection 145b of the Atomic Energy Act of 1954 (42 U.S.C. 2165(b)), to permit any member officer, or employee of the Council, or the Administrator, or any officer, employee, member of an advisory committee, contractor, subcontractor, or officer or employee of a contractor or subcontractor of the Administration, to have access to Restricted Data relating to aeronautical and space activities which is required in the performance of his duties and so certified by the Council or the Administrator, as the case may be, but only if (1) the Council or Administrator or designee thereof has determined, in accordance with the established personnel security procedures and standards of the Council or Administration, that permitting such individual to have access to such Restricted Data will not endanger the common defense and security, and (2) the Council or Administrator or designee thereof finds that the established personnel and other security procedures and standards of the Council or Administration are adequate and in reasonable conformity to the standards established by the Atomic Energy Commission under section 145 of the Atomic Energy Act of 1954 (42 U.S.C. 2165). Any individual granted access to such Restricted Data pursuant to this subsection may exchange such Data with any individual who (A) is an officer or employee of the Department of Defense, or any department or agency thereof, or a member of the armed forces, or a contractor or subcontractor of any such department, agency, or armed force or an officer or employee of any such contractor or subcontractor, and (B) has been authorized to have access to Restricted Data under the provisions of section 143 of the Atomic Energy Act of 1954 (42 U.S.C. 2163).

(c) Chapter 37 of title 18 of the United States Code (entitled Espionage and Censorship) is amended by—

(1) adding at the end thereof the following new section:

§ 799. Violation of regulations of National Aeronautics and Space Administration.

Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, shall be fined not more than \$5,000, or imprisoned not more than one year, or both.



(2) adding at the end of the sectional analysis thereof the following new item:

§ 799. Violation of regulations of National Aeronautics and Space Administration.

(d) Section 1114 of title 18 of the United States Code is amended by inserting immediately before "while engaged in the performance of his duties" the following: "or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration."

#### PERMISSION TO USE FIREARMS

(e) The Administrator may direct such of the officers and employees of the Administration as he deems necessary in the public interest to carry firearms while in the conduct of their official duties. The Administrator may also authorize such of those employees of the contractors and subcontractors of the Administration engaged in the protection of property owned by the United States and located at facilities owned by or contracted to the United States as he deems necessary in the public interest, to carry firearms while in the conduct of their official duties.

#### CARRYING OF FIREARMS BY CIVILIAN PERSONNEL OF DEPARTMENT OF DEFENSE

Act of July 31, 1958 (72 Stat. 455; 10 U.S.C. 1585):

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That chapter 81 of title 10, United States Code, is amended—

(1) by adding the following new section at the end thereof:

§ 1585. Carrying of firearms.

Under regulations to be prescribed by the Secretary of Defense, civilian officers and employees of the Department of Defense may carry firearms or other appropriate weapons while assigned investigative duties or such other duties as the Secretary may prescribe; and

(2) by adding the following new item at the end of the analysis:

§ 1585. Carrying of firearms.

#### INTERNATIONAL CLAIMS SETTLEMENT

Act of August 8, 1958 (72 Stat. 527); 5 U.S.C. 1642h—*Claims against Czechoslovakia*:

SEC. 409. No award shall be made on any claim under section 404 of this [code] title to or for the benefit of (1) any person who has been convicted of a violation of any provision of chapter 115, title 18, of the United States Code, or of any other crime involving disloyalty to the United States, or (2) any

claimant whose claim under this [code] title is within the scope of [code] title II of this Act.

#### AVAILABILITY OF INFORMATION TO THE PUBLIC

Act of August 12, 1958 (72 Stat. 547); 5 U.S.C. 301—Amending R.S. § 162 with respect to the authority of Federal officers and agencies to withhold information and limit the availability of records:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 161 of the Revised Statutes of the United States (5 U.S.C. 22) is amended by adding at the end thereof the following new sentence: "This section does not authorize withholding information from the public or limiting the availability of records to the public."

#### FEDERAL AVIATION ACT OF 1958

Act of August 23, 1958 (72 Stat. 731); 5 U.S.C. 1324, 1347, 1401, 1472, 1504, 1521, 1522, 1523:

#### EXCHANGE OF INFORMATION

SEC. 204(c). The Board is empowered to exchange with foreign government, through appropriate agencies of the United States, information pertaining to aeronautics.

#### NATIONAL DEFENSE AND CIVIL NEEDS

SEC. 306. In exercising the authority granted in, and discharging the duties imposed by, this Act, the Administrator shall give full consideration to the requirements of national defense, and of commercial and general aviation, and to the public right of freedom of transit through the navigable airspace.

#### REGISTRATION OF AIRCRAFT NATIONALITY

##### REGISTRATION REQUIRED

SEC. 501. (a) It shall be unlawful for any person to operate or navigate any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or (except as provided in section 1108 of this Act) to operate or navigate within the United States any aircraft not eligible for registration: *Provided*, That aircraft of the national-defense forces of the United States may be operated and navigated without being so registered if such aircraft are identified, by the agency having jurisdiction over them, in a manner satisfactory to the Administrator. The Administrator may, by regulation, permit the operation and navigation of aircraft without registration by the owner for such reasonable periods after transfer of ownership thereof as the Administrator may prescribe.

## ELIGIBILITY FOR REGISTRATION

(b) An aircraft shall be eligible for registration if, but only if—

- (1) It is owned by a citizen of the United States and it is not registered under the laws of any foreign country; or
- (2) It is an aircraft of the Federal Government, or of a State, Territory, or possession of the United States, or of the District of Columbia, or of a political subdivision thereof.

## ISSUANCE OF CERTIFICATE

(c) Upon request of the owner of any aircraft eligible for registration, such aircraft shall be registered by the Administrator and the Administrator shall issue to the owner thereof a certificate of registration.

## APPLICATION

(d) Applications for such certificates shall be in such form, be filed in such manner, and contain such information as the Administrator may require.

## SUSPENSION OR REVOCATION

(e) Any such certificate may be suspended or revoked by the Administrator for any cause which renders the aircraft ineligible for registration.

## EFFECT OF REGISTRATION

(f) Such certificate shall be conclusive evidence of nationality for international purposes, but not in any proceeding under the laws of the United States. Registration shall not be evidence of ownership of aircraft in any proceeding in which such ownership by a particular person, is or may be, in issue.

## DIVULGING INFORMATION

SEC. 902(f). If the Administrator or any member of the Board, or any officer or employee of either, shall knowingly and willfully divulge any fact or information which may come to his knowledge during the course of an examination of the accounts, records, and memoranda of any air carrier, or which is withheld from public disclosure under section 1104, except as he may be directed by the Administrator or the Board in the case of information ordered to be withheld by either, or by a court of competent jurisdiction or a judge thereof, he shall upon conviction thereof be subject for each offense to a fine of not more than \$5,000 or imprisonment for not more than two years, or both: *Provided*, That nothing in this section shall authorize the withholding of information by the Administrator or Board from the duly authorized committees of the Congress.

## TRANSPORTATION OF EXPLOSIVES

SEC. 902(h). (1) Any person who knowingly delivers or causes to be delivered to an air carrier or to the operator of any

civil aircraft for transportation in air commerce, or who causes the transportation in air commerce of, any shipment, baggage, or property, the transportation of which would be prohibited by any rule, regulation, or requirement prescribed by the Administrator under [code] title VI of this Act, relating to the transportation, packing, marking, or description of explosives or other dangerous articles shall, upon conviction thereof for each such offense, be subject to a fine of not more than \$1,000, or to imprisonment not exceeding one year, or to both such fine and imprisonment: *Provided*, That when death or bodily injury of any person results from an offense punishable under this subsection, the person or persons convicted thereof shall, in lieu of the foregoing penalty, be subject to a fine of not more than \$10,000 or to imprisonment not exceeding ten years, or to both such fine and imprisonment.

(2) In the exercise of his authority under title VI of this Act, the Administrator may provide by regulation for the application in whole or in part of the rules or regulations of the Interstate Commerce Commission (including future amendments and additions thereto) relating to the transportation, packing, marking, or description of explosives or other dangerous articles for surface transportation, to the shipment and carriage by air of such articles. Such applicability may be terminated by the Administrator at any time. While so made applicable, any such rule or regulation, or part thereof, of the Interstate Commerce Commission shall for the purposes of this Act be deemed to be a regulation of the Administrator prescribed under title VI.

#### WITHHOLDING INFORMATION

SEC. 1104. Any person may make written objection to the public disclosure of information contained in any application, report, or document filed pursuant to the provisions of this Act or of information obtained by the Board or the Administrator, pursuant to the provisions of this Act, stating the grounds for such objection. Whenever such objection is made, the Board or Administrator shall order such information withheld from public disclosure when, in their judgment, a disclosure of such information would adversely affect the interests of such person and is not required in the interest of the public. The Board or Administrator shall be responsible for classified information in accordance with appropriate law: *Provided*, That nothing in this section shall authorize the withholding of information by the Board or Administrator from the duly authorized committees of the Congress.

#### SECURITY PROVISIONS PURPOSE

SEC. 1201. The purpose of this [code] title is to establish security provisions which will encourage and permit the maximum use of the navigable airspace by civil aircraft consistent with the national security.

## SECURITY CONTROL OF AIR TRAFFIC

SEC. 1202. In the exercise of his authority under section 307(a) of this Act, the Administrator, in consultation with the Department of Defense, shall establish such zones or areas in the airspace of the United States as he may find necessary in the interest of national defense, and by rule, regulation, or order restrict or prohibit the flight of civil aircraft, which he cannot identify, locate, and control with available facilities, within such zones or areas.

## PENALTIES

SEC. 1203. In addition to the penalties otherwise provided for by this Act, any person who knowingly or willfully violates any provision of this [code] title, or any rule, regulation, or order issued thereunder shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not exceeding \$10,000, or to imprisonment not exceeding one year, or to both such fine and imprisonment.

## STUDY OF SURRENDER PLAN FORBIDDEN

Act of August 27, 1958 (72 Stat. 884 § 1602) ; 50 U.S.C. 407:

SEC. 1602. No part of the funds appropriated in this (or any other) Act shall be used to pay (1) any person, firm, or corporation, or any combinations of persons, firms, or corporations, to conduct a study or to plan when and how or in what circumstances the Government of the United States should surrender this country and its people to any foreign power, (2) the salary or compensation of any employee or official of the Government of the United States who proposes or contracts or who has entered into contracts for the making of studies or plans for the surrender by the Government of the United States of this country and its people to any foreign power in any event or under any circumstances.

## LICENSES TO NONCITIZENS FOR RADIO STATIONS ON AIRCRAFT

Act of August 28, 1958 (72 Stat. 981), as last amended by Act of August 10, 1971 (85 Stat. 302, § 1) ; 47 U.S.C. 303, 310:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 303(1) of the Communications Act of 1934 is amended by inserting immediately before the semicolon at the end thereof the following: “, except that in issuing licenses for the operation of radio stations on aircraft the Commission may, if it finds that the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments.”

(2) Notwithstanding section 301 of this title and paragraph



(1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: *Provided*, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this chapter and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(3) Notwithstanding paragraph (1) of this subsection, the Commission may issue licenses for the operation of amateur radio stations to aliens admitted to the United States for permanent residence who have filed under section 1445(f) of Title 8 a declaration of intention to become a citizen of the United States: *Provided*, That when an application for a license is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested license may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this chapter and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such license.

SEC. 2. Subsection (a) of section 310 of the Communications Act of 1934 is amended by adding at the end thereof the following new paragraph:

Notwithstanding paragraph (1) of this subsection, a license for an amateur radio station may be granted to and held by an alien admitted to the United States for permanent residence who has filed under section 1445(f) of Title 8 a declaration of intention to become a citizen of the United States: *Provided*, That when an application for a license is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: *And provided further*, That the requested license may then be granted unless the Commission shall determine that information received

from such agencies necessitates denial of the request. Other provisions of this chapter and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such license.

### VETERANS' BENEFITS

Act of September 2, 1958 (72 Stat. 1150) ; 38 U.S.C. 101-5228 :

#### FORFEITURE OF NATIONAL SERVICE LIFE INSURANCE

##### § 711. *Forfeiture*

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such force, shall forfeit all rights to National Service Life Insurance. No insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States; but the cash surrender value, if any, of such insurance on the date of such death shall be paid to the designated beneficiary, if living, or otherwise to the beneficiary or beneficiaries within the permitted class in accordance with the order specified in section 716 (b) of this title.

#### FORFEITURE OF U.S. GOVERNMENT LIFE INSURANCE

##### § 754. *Forfeiture*

No yearly renewable term insurance or United States Government life insurance shall be payable for death inflicted as a lawful punishment for crime or military offense, except when inflicted by the enemy. In such cases the cash surrender value of United States Government life insurance, if any, on the date of such death shall be paid to the designated beneficiary if living, or if there be no designated beneficiary alive at the death of the insured the said value shall be paid to the estate of the insured.

#### EDUCATIONAL INSTITUTIONS LISTED BY ATTORNEY GENERAL

SEC. 1626 and 1726. The Administrator shall not approve the enrollment of, or payment of an education and training allowance to, any eligible veteran in any course in an educational institution or training establishment while it is listed by the Attorney General under section 3 of the Executive Order 9835, as amended.

#### CERTAIN BARS TO BENEFITS

SEC. 3103, as amended by P.L. 86-113 (73 Stat. 262) :

(a) The discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces, or the discharge of any such person on the ground that he was a conscientious objector who refused to perform military duty

or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, or as a deserter, or of an officer by the acceptance of his resignation for the good of the service, or (except as provided in subsection (c)) the discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Veterans' Administration based upon the period of service from which discharged or dismissed.

(b) Notwithstanding subsection (a), if it is established to the satisfaction of the Administrator that, at the time of the commission of an offense leading to his court-martial, discharge, or resignation, any person was insane, such person shall not be precluded from benefits under laws administered by the Veterans' Administration based upon the period of service from which he was separated.

(c) The discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Veteran's Administration based upon the period of service from which discharged or dismissed. No individual shall be considered as having been discharged on his own application or solicitation as an alien in the absence of affirmative evidence establishing that he was so discharged.

(d) This section shall not apply to any war-risk insurance, Government (converted) or National Service Life Insurance policy.

#### PERSONS IN TERRITORY OF THE ENEMY

SEC. 3108. When any alien entitled to gratuitous benefits under laws administered by the Veterans' Administration is located in territory of, or under military control of, an enemy of the United States or of any of its allies, any award of such benefits in favor of such alien shall be terminated forthwith.

(b) Any alien whose award is terminated under subsection (a) shall not thereafter be entitled to any such gratuitous benefits except upon the filing of a new claim, accompanied by evidence satisfactory to the Administrator showing that such alien was not guilty of mutiny, treason, sabotage, or rendering assistance to such enemy. Except as provided in section 3109 of this [code] title, such gratuitous benefits shall not be paid for any period before the date the new claim is filed.

(c) While such alien is located in territory of, or under military control of, an enemy of the United States or of any of its allies, the Administrator, in his discretion, may apportion and pay any part of such benefits to the dependents of such alien. No dependent of such alien shall receive benefits by reason of this subsection in excess of the amount to which he would be entitled if such alien were dead.

#### FORFEITURE FOR FRAUD

SEC. 3503, as amended by Act of June 30, 1972 (86 Stat. 397):  
38 U.S.C. 3503:

(a) Whoever knowingly makes or causes to be made or conspires, combines, aids, or assists in, agrees to, arranges for, or in

any way procures the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, concerning any claim for benefits under any of the laws administered by the Veterans' Administration (except laws pertaining to insurance benefits) shall forfeit all rights, claims, and benefits under all laws administered by the Veterans' Administration (except laws pertaining to insurance benefits).

(b) Whenever a veteran entitled to disability compensation has forfeited his right to such compensation under this section the compensation payable but for the forfeiture shall thereafter be paid to his wife, children, and parents. Payments made to a wife, children, and parents under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability. No wife, child, or parent who participated in the fraud for which forfeiture was imposed shall receive any payment by reason of this subsection.

(c) Forfeiture of benefits by a veteran shall not prohibit payment of the burial allowance, death compensation, dependency and indemnity compensation, or death pension in the event of his death.

(d) (1) After September 1, 1959, no forfeiture of benefits may be imposed under this section or section 3504 of this title upon any individual who was a resident of, or domiciled in, a State at the time the act or acts occurred on account of which benefits would, but for this subsection, be forfeited unless such individual ceases to be a resident of, or domiciled in, a State before the expiration of the period during which criminal prosecution could be instituted. This subsection shall not apply with respect to (a), any forfeiture occurring before September 1, 1959, or (b) an act or acts which occurred in the Philippine Islands prior to July 4, 1946.

(2) The Administrator is hereby authorized and directed to review all cases in which, because of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, a forfeiture of gratuitous benefits under laws administered by the Veterans' Administration was imposed, pursuant to this section or prior provisions of law, on or before September 1, 1959. In any such case in which he determines that the forfeiture would not have been imposed under the provisions of this section in effect after September 1, 1959, he shall remit the forfeiture, effective the date of enactment of this amendatory Act. Benefits to which the individual concerned becomes eligible by virtue of any such remission may be awarded, upon application therefor, and the effective date of any award of compensation, dependency and indemnity compensation, or pension made in such a case shall be fixed in accordance with the provisions of section 3010(g) of this title.

(e) No apportionment award under subsection (b) of this section shall be made in any case after the date of enactment of this subsection.

## FORFEITURE FOR TREASON

SEC. 3504, as amended by Act of June 11, 1969 (83 Stat. 34); 38 U.S.C. § 3504:

(a) Any person shown by evidence satisfactory to the Administrator be [so in original] guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future gratuitous benefits under laws administered by the Veterans' Administration.

(b) The Administrator, in his discretion, may apportion and pay any part of benefits forfeited under subsection (a) to the dependents of the person forfeiting such benefits. No dependent of any person shall receive benefits by reason of this subsection in excess of the amount to which he would be entitled if such person were dead.

(c) In the case of any forfeiture under this section there shall be no authority after September 1, 1959 (1) to make an apportionment award pursuant to subsection (b) or (2) to make an award to any person of gratuitous benefits based on any period of military, naval, or air service commencing before the date of commission of the offense.

## FORFEITURE FOR SUBVERSIVE ACTIVITIES

SEC. 3505, as added by Act of September 25, 1971 (85 Stat. 348):

§ 3505. *Forfeiture for subversive activities.* (a) Any individual who is convicted after the date of enactment of this section of any offense listed in subsection (b) of this section shall, from and after the date of commission of such offense, have no right to gratuitous benefits under laws administered by the Veterans' Administration based on periods of military, naval, or air service commencing before the date of the commission of such offense and no other person shall be entitled to such benefits on account of such individual. After receipt of notice of the return of an indictment for such an offense the Veterans' Administration shall suspend payment of such gratuitous benefits pending disposition of the criminal proceedings. If any individual whose right to benefits has been terminated pursuant to this section is granted a pardon of the offense by the President of the United States, the right to such benefits shall be restored as of the date of such pardon.

(b) The offenses referred to in subsection (a) of this section are those offenses for which punishment is prescribed (1) in the following provisions of title 18, United States Code: sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105; (2) in the Uniform Code of Military Justice, articles 94, 104, and 106; (3) in the following sections of the Atomic Energy Act of 1954: sections 222, 223, 224, 225, and 226; and (4) in section 4 of the Internal Security Act of 1950.

(c) The Attorney General shall notify the Administrator in each case in which an individual is indicted or convicted of an offense listed in clauses (1), (3), or (4) of subsection (b) of this section. The Secretary of Defense or the Secretary of the Treas-



## NATIONAL DEFENSE EDUCATION ACT OF 1958

ury, as may be appropriate, shall notify the Administrator in each case in which an individual is convicted of an offense listed in clause (2) of subsection (b) of this section.

Act of September 2, 1958 (72 Stat. 1602 § 1001(f)) as last amended by Act of April 13, 1971 (84 Stat. 173); 20 U.S.C. 581:

(f) (1) No part of any funds appropriated or otherwise made available for expenditure under the authority of this Act shall be used to make payments or loans to any individual (other than a permanent resident of the Trust Territory of the Pacific Islands) unless such individual has taken and subscribed to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic".

(2) No fellowship or stipend shall be awarded to any individual under the provisions of sections 461 to 465 or sections 511 to 513 of this title unless such individual has provided the Commissioner (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of \$25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such fellowship or stipend.

(3) The provisions of section 1001 of Title 18 shall be applicable with respect to the oath or affirmation required under paragraph (1) of this subsection and to the statement required under paragraph (2).

(4) (A) When any Communist organization, as defined in section 782(5) of Title 50, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any payment or loan which is to be made from funds part or all of which are appropriated or otherwise made available for expenditure under the authority of this Act, or (ii) to use or attempt to use any such payment or loan.

(B) Whoever violates subparagraph (A) of this paragraph shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(g) Nothing contained in this Act shall prohibit the Commissioner from refusing or revoking a fellowship award under sections 461 to 465, of this title, in whole or in part, in the case of any applicant or recipient, if the Commissioner is of the opinion that such award is not in the best interests of the United States.<sup>69</sup>

<sup>69</sup> Act of October 16, 1962 (76 Stat. 1070) eliminated the requirement of an affidavit disavowing belief or membership in, or support of any organization believing in, or teaching the overthrow of the United States Government by force or any illegal means.

## COMMUNISTS PROHIBITED FROM HOLDING OFFICE IN LABOR UNION

Act of September 14, 1959 (73 Stat. 536 § 504)—*The Landrum-Griffith Labor Act*:

SEC. 504. (a) No person who is or has been a member of the Communist Party or who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of title II or III of this Act, or conspiracy to commit any such crimes, shall serve—

(1) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, or other employee (other than as an employee performing exclusively clerical or custodial duties) of any labor organization, or

(2) as a labor relations consultant to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee (other than as an employee performing exclusively clerical or custodial duties) of any group or association of employers dealing with any labor organization;

during or for five years after the termination of his membership in the Communist Party, or for five years after such conviction or after the end of such imprisonment, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in clause (1) or (2) would not be contrary to the purposes of this Act. Prior to making any such determination the Board shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final. No labor organization or officer thereof shall knowingly permit any person to assume or hold any office or paid position in violation of this subsection.

(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section, any person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event, regardless of whether such conviction occurred before or after the date of enactment of this Act.<sup>70</sup>

<sup>70</sup> Section 504 which makes it a crime for a member of the Communist party to serve as an officer or employee of a labor union is unconstitutional as a bill of attainder. *United States v. Brown*, 381 U.S. 437 (1965).



## Part II

### PROVISIONS FOR SECURITY WHICH APPLY TO GOVERNMENT AGENCIES

#### SECTION A. SPECIAL PROVISIONS

Foreign Service Act of 1946 (60 Stat. 999-1040), approved August 13, 1946, contains the following provisions regarding personnel:

SEC. 212 (a); 22 U.S.C. 827: The Board of Examiners for the Foreign Service, shall, in accordance with regulations prescribed by the Secretary and under the general supervision of the Board of the Foreign Service, provide for and supervise the conduct of such examinations as may be given to candidates for appointment as Foreign Service officers in accordance with the provisions of sections 516 and 517 or to any other person to whom an examination for admission to the Service shall be given in accordance with the provisions of this or any other Act or any regulations issued pursuant thereto, and provide for such procedures as may be necessary to determine the loyalty of such persons to the United States and their attachment to the principles of the Constitution.

SEC. 516, 22 U.S.C. 911: No person shall be eligible for appointment as a Foreign Service officer of class 8 unless he has passed such written, oral, physical, and other examinations as the Board of Examiners for the Foreign Service may prescribe to determine his fitness and aptitude for the work of the Service and has demonstrated his loyalty to the Government of the United States and his attachment to the principles of the Constitution. . . ." [as amended by Act of July 28, 1956, 70 Stat. 704 § 5].

SEC. 517; 22 U.S.C. 912: A person who has not served in class 8 shall not be eligible for appointment as a Foreign Service officer of classes 1 to 7, inclusive, unless he has passed such written, oral, physical, and other examinations as the Board of Examiners for the Foreign Service may prescribe to determine his fitness and aptitude for the work of the Service; demonstrated his loyalty to the Government of the United States and his attachment to the principles of the Constitution; . . . [as amended by Act of July 28, 1956, 70 Stat. 704 § 6].

Institute of Inter-American Affairs—Act of August 5, 1947 (61 Stat. 781, sec. 3(e)), as amended by Act of April 5, 1952 (66 Stat. 43 ch. 159) and as extended by Act of August 26, 1954 (68 Stat. 862 § 554(a)), 22 U.S.C. 2816:

\* \* \* *Provided further*, That no person who is a citizen of the United States not presently employed by the Institute of Inter-American Affairs or the Inter-American Educational Founda-

tion, Inc., shall be employed under authority of this paragraph until such person has been investigated by the Civil Service Commission.

United States Information and Educational Exchange Act, 1948 (69 Stat. 13, sec. 1001), approved January 27, 1948, as amended by Act of April 5, 1952 (66 Stat. 43, ch. 159; 22 U.S.C. § 1434), contains a provision regarding loyalty check of personnel to be employed or assigned to duties under the Act:

SEC. 1001. No citizen or resident of the United States, whether or not now in the employ of the Government, may be employed or assigned to duties by the Government under this Act until such individual has been investigated by the Civil Service Commission and a report thereon has been made to the Secretary of State. This section shall not apply in the case of any officer appointed by the President by and with the advice and consent of the Senate.

World Health Organization—Act of June 14, 1948 (62 Stat. 441, ch. 469, sec. 2, proviso), as amended by Act of April 5, 1952 (66 Stat. 43, ch. 159), contains a security provision covering United States representatives, etc.:

SEC. 2. . . . : *Provided*, That no person shall serve as such representative, delegate, or alternate until such person has been investigated as to loyalty and security by the Civil Service Commission.

International Labor Organization—Act of June 30, 1948 (62 Stat. 1152, ch. 756, sec. 3), as amended by Act of April 5, 1952 (66 Stat. 43, ch. 159, 22 U.S.C. 290a), contains security provisions to cover persons serving as United States representative, etc.:

SEC. 3. No person shall serve as representative, delegate, or alternate from the United States until such person has been investigated as to loyalty and security by the Civil Service Commission.

National Science Foundation Act of 1950 (64 Stat. 156, sec. 15) as amended by Act of April 5, 1952 (66 Stat. 43 c. 159), and as renumbered by Act of July 11, 1958 (72 Stat. 353, 42 U.S.C. 1874):

#### SECURITY PROVISIONS

SEC. 16. SECURITY PROVISIONS—NUCLEAR ENERGY RESEARCH AND DEVELOPMENT.—(a) The Foundation shall not support any research or development activity in the field of nuclear energy, nor shall it exercise any authority pursuant to section 1870(e) of this title in respect to that field, without first having obtained the concurrence of the Atomic Energy Commission that such activity will not adversely affect the common defense and security. To the extent that such activity involves restricted data as defined in the Atomic Energy Act of 1954 the provisions of that Act regarding the control of the dissemination of restricted data and the security clearance of those individuals to be given access to restricted data shall be applicable. Nothing in this chapter shall supersede or modify any provision of the Atomic Energy Act of 1954.



## RESEARCH RELATING TO NATIONAL DEFENSE

(b) (1) In the case of scientific or technical research activities under this chapter in connection with matters relating to the national defense, with respect to which funds have been transferred to the Foundation from the Department of Defense in accordance with the provisions of section 1873(g) of this title, the Secretary of Defense shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as he deems necessary.

(2) In the case of scientific research activities under this chapter in connection with matters relating to the national defense other than research activities referred to in paragraph (1) of this subsection, the Foundation shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as it deems necessary.

(3) Any agency of the Government exercising investigatory functions is authorized to make such investigations and reports as may be requested by the Foundation in connection with the enforcement of security requirements and safeguards, including restrictions with respect to access to information and property, established under paragraph (1) or (2) of this subsection.

## CLEARANCE OF PERSONNEL BY CIVIL SERVICE COMMISSION

(c) No employee of the Foundation shall be permitted to have access to information or property with respect to which access restrictions have been established under subsection (b) (1) or (2) of this section until the Civil Service Commission shall have made an investigation into the character, associations, and loyalty of such individual and shall have reported the findings of said investigation to the Foundation, and the Foundation shall have determined that permitting such individual to have access to such information or property will not endanger the common defense and security.

## OATH AND STATEMENT PREREQUISITE TO ACCEPTANCE OF SCHOLARSHIP OR FELLOWSHIP; INELIGIBILITY OF COMMUNIST ORGANIZATION MEMBERS; PENALTIES

(d) (1) No part of any funds appropriated or otherwise made available for expenditure by the Foundation under authority of this chapter shall be used to make payments under any scholarship or fellowship awarded to any individual under section 1869 of this title, unless such individual—

(A) has taken and subscribed to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic"; and

(B) has provided the Foundation (in the case of applica-

tions made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of \$25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such scholarship or fellowship.

The provisions of section 1001 of Title 18, shall be applicable with respect to the oath or affirmation and statement herein required.

(2) (A) When any Communist organization, as defined in section 782(5) of Title 50, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any scholarship or fellowship which is to be awarded from funds part or all of which are appropriated or otherwise made available for expenditure under the authority of section 1869 of this title, or (ii) to use or attempt to use any such award.

(B) Whoever violates subparagraph (A) of this paragraph shall be fined not more than \$10,000, or imprisoned not more than five years, or both.<sup>71</sup>

Act of April 5, 1952 (66 Stat. 43 c. 159); 5 U.S.C. 1304(b)-(d), (g); 22 U.S.C. 272b, 281b, 290a, 1434; 42 U.S.C. 2161-2166:

That sections 3(e) of the Act of August 5, 1947 (61 Stat. 780), entitled "An Act to provide for the reincorporation to The Institute of Inter-American Affairs, and for other purposes"; section 1001 of the Act of January 27, 1948 (62 Stat. 6), entitled "An Act to promote the better understanding of the United States among the peoples of the world and to strengthen cooperative international relations"; section 2 of the Act of June 14, 1948 (62 Stat. 441), entitled "Joint resolution providing for membership and participation by the United States in the World Health Organization and authorizing an appropriation therefor"; section 3 of the Act of June 30, 1948 (62 Stat. 1151), entitled "Joint resolution providing for acceptance by the United States of America of the Constitution of the International Labor Organization Instrument of Amendment, and further authorizing an appropriation for payment of the United States share of the expenses of membership and for expenses of participation by the United States"; subsection (c) of section 15 of the Act of May 10, 1950 (64 Stat. 149), entitled "An Act to promote the progress of

<sup>71</sup> Act of October 16, 1962 (76 Stat. 1069) substituted the requirement for applications made on or after October 1, 1962, of a full statement regarding convictions for crimes, other than any committed before age 16 or for minor traffic violations, and any criminal charges punishable by thirty days confinement, or more, pending at the time of an application for a scholarship or fellowship, for the requirement of an affidavit stating that the affiant did not believe in, and was not a member or supporter of any organization believing in, or teaching, the violent overthrow of the United States by illegal means.

science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes" section 3(e) of the Act of August 11, 1950 (64 Stat. 438), entitled "An Act to authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes," are amended by striking therefrom, wherever they appear, the words "Federal Bureau of Investigation" and inserting in lieu thereof the words "Civil Service Commission": *Provided*, That in the event an investigation made pursuant to any of the above statutes as herein amended develops any data reflecting that the individual who is the subject of the investigation is of questionable loyalty, the Civil Service Commission shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Civil Service Commission for its information and appropriate action: *Provided further*, That, if the President deems it to be in the national interest, he may from time to time cause investigations of any group or class which are required by any of the above statutes, to be made by the Federal Bureau of Investigation rather than the Civil Service Commission: *Provided further*, That a majority of the members of the Atomic Energy Commission, or the Secretary of State, as the case may be, shall certify those specific positions which are of a high degree of importance or sensitivity, and upon such certification the investigation and reports required by such provisions or by any other laws amended by the first section of this Act shall, in the case of such positions, be made by the Federal Bureau of Investigation rather than the Civil Service Commission.

SEC. 2. The transfer of investigative functions hereinbefore provided for shall be effectuated during the period commencing with the date of the approval of this Act and terminating one hundred and eighty days thereafter, it being the intent of the Congress that the said transfer be effectuated as expeditiously within that period of time as the Civil Service Commission shall consider the facilities of that Commission adequate to undertake all or any part of the functions herein transferred: *Provided, however*, That investigations pending with the Federal Bureau of Investigation at the expiration of the one hundred and eighty days shall be completed in due course by that Bureau and reports thereof furnished to the Civil Service Commission for its information and appropriate action.

SEC. 3. Nothing in this Act shall be construed to affect in any way the responsibility of the Federal Bureau of Investigation for investigations of espionage, sabotage, or subversive acts.

SEC. 4. In order to carry out the provisions and purposes of this Act, appropriations available to the departments or agencies on whose account investigations are made pursuant to the statutes amended by section 1 of this Act, shall be available for advances or reimbursements directly to the applicable appropriations of the Civil Service Commission, or of the Federal Bureau of Investigation, for the cost of investigations made for such departments or agencies.

Civil Service Commission—Act of June 5, 1952 (66 Stat. 107) as last amended by Act of January 5, 1971 (84 Stat. 1928); 5 U.S.C. 1304(e), (f):

(e) (1) A revolving fund is available, to the Commission without fiscal year limitation, for financing investigations, training, and such other functions as the Commission is authorized or required to perform on a reimbursable basis. However, the functions which may be financed in any fiscal year by the fund are restricted to those functions which are covered by the budget estimates submitted to the Congress for that fiscal year. To the maximum extent feasible, each individual activity shall be conducted generally on an actual cost basis over a reasonable period of time.

(2) The capital of the fund consists of the aggregate of—

(A) appropriations made to provide capital for the fund, which appropriations are hereby authorized; and

(B) the sum of the fair and reasonable value of such supplies, equipment, and other assets as the Commission from time to time transfers to the fund (including the amount of the unexpended balances of appropriations or funds relating to activities the financing of which is transferred to the fund) less the amount of related liabilities, the amount of unpaid obligations, and the value of accrued annual leave of employees, which are attributable to the activities the financing of which is transferred to the fund.

(3) The fund shall be credited with—

(A) advances and reimbursements from available funds of the Commission or other agencies, or from other sources, for those services and supplies provided at rates estimated by the Commission as adequate to recover expenses of operation (including provision for accrued annual leave of employees and depreciation of equipment); and

(B) receipts from sales or exchanges of property, and payments for loss of or damage to property, accounted for under the fund.

(4) Any unobligated and unexpended balances in the fund which the Commission determines to be in excess of amounts needed for activities financed by the fund shall be deposited in the Treasury of the United States as miscellaneous receipts.

(5) The Commission shall prepare a business-type budget providing full disclosure of the results of operations for each of the functions performed by the Commission and financed by the fund, and such budget shall be transmitted to the Congress and considered, in the manner prescribed by law for wholly owned Government corporations.

(6) The Comptroller General of the United States shall, as a result of his periodic reviews of the activities financed by the fund, report and make such recommendations as he deems appropriate to the Committees on Post Office and Civil Service of the Senate and House of Representatives at least once every three years.



(f) An agency may use available appropriations to reimburse the Commission or the Federal Bureau of Investigation for the cost of investigations, training, and functions performed for them under this section, or to make advances toward their cost. These advances and reimbursements shall be credited directly to the applicable appropriations of the Commission or the Federal Bureau of Investigation.

Atomic Energy Act of 1954 (68 Stat. 919) as last amended by Act of August 29, 1962 (76 Stat. 411) :

SEC. 2165. *Security Restrictions—On Contractors and Licensees.*—(a) No arrangement shall be made under section 2051 of this title, no contract shall be made or continued in effect under section 2061 of this title and no license shall be issued under section 2133 or 2134 of this title, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

#### EMPLOYMENT OF PERSONNEL; ACCESS TO RESTRICTED DATA

(b) Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

#### ACCEPTANCE OF INVESTIGATION AND CLEARANCE GRANTED BY OTHER GOVERNMENT AGENCIES

(c) In lieu of the investigation and report to be made by the Civil Service Commission pursuant to subsection (b) of this section, the Commission may accept an investigation and report on the character, associations, and loyalty of an individual made by another Government agency which conducts personnel security investigations, provided that a security clearance has been granted to such individual by another Government agency based on such investigation and report.

#### INVESTIGATIONS BY F.B.I.

(d) In the event an investigation made pursuant to subsections (a) and (b) of this section develops any data reflecting that



the individual who is the subject of the investigation is of questionable loyalty, the Civil Service Commission shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Civil Service Commission for its information and appropriate action.

#### PRESIDENTIAL INVESTIGATION

(e) If the President deems it to be in the national interest he may from time to time determine that investigations of any group or class which are required by subsections (a), (b), and (c) of this section be made by the Federal Bureau of Investigation.

#### CERTIFICATION OF SPECIFIC POSITIONS FOR INVESTIGATION BY F.B.I.

(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a majority of the members of the Commission shall certify those specific positions which are of a high degree of importance or sensitivity, and upon such certification, the investigation and reports required by such provisions shall be made by the Federal Bureau of Investigation.

#### INVESTIGATION STANDARDS

(g) The Commission shall establish standards and specifications in writing as to the scope and extent of investigations, the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security. Such standards and specifications shall be based on the location and class or kind of work to be done and shall, among other considerations, take into account the degree of importance to the common defense and security of the restricted data to which access will be permitted.

#### WAR TIME CLEARANCE

(h) Whenever the Congress declares that a state of war exists, or in the event of a national disaster due to enemy attack, the Commission is authorized during the state of war or period of national disaster due to enemy attack to employ individuals and to permit individuals access to Restricted Data pending the investigation report, and determination required by subsection (b) of this section, to the extent that and so long as the Commission finds that such action is required to prevent impairment of its activities in furtherance of the common defense and security.

Government Employees Training Act (72 Stat. 327 § 14); 5 U.S.C. 4107:

SEC. 14. *Prohibition on Training through facilities advocating overthrow of the Government by force or violence.*—No part of any appropriation of, or of any funds available for expendi-

ture by, any department shall be available for payment for the training of any employee by, in, or through any non-Government facility teaching or advocating the overthrow of the Government of the United States by force or violence, or by or through any individual with respect to whom determination has been made by a proper Government administrative or investigatory authority that, on the basis of information or evidence developed in investigations and procedures authorized by law or Executive orders of the President, there exists a reasonable doubt of his loyalty to the United States.

Federal Council For Science And Technology (Executive Order 10807 of March 13, 1959, 24 F.R. 1897) :

SEC. 5. *Security procedures.*—The Chairman shall establish procedures to insure the security of classified information used by or in the custody of the Council or employees under its jurisdiction.

#### SECTION B. GENERAL PROVISIONS APPEARING MAINLY IN APPROPRIATION ACTS

Treasury, Postal Service, and General Government Appropriation Act, 1973 (86 Stat. 487)—*Citizenship requirements* :

SEC. 602. Unless otherwise specified and during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, had filed a declaration of intention to become a citizen of the United States prior to such date, (3) is a person who owes allegiance to the United States, or (4) is an alien from Poland or the Baltic countries lawfully admitted to the United States for permanent residence: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than \$4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

Department of Agriculture and Farm Credit Administration Appropriation Act, 1972 (86 Stat. 502) ; 7 U.S.C. 435—*Employment of aliens* :

SEC. 502. Provisions of law prohibiting or restricting the employment of aliens shall not apply to employment under the appropriation for the Foreign Agricultural Service.

Departments of State, Justice, Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (86 Stat. 1109)—*One world government* :

SEC. 104. None of the funds appropriated in this title shall be used (1) to pay the United States contribution to any international organization which engages in the direct or indirect promotion of the principle or doctrine of one world government or one world citizenship; (2) for the promotion, direct or indirect, of the principle or doctrine of one world government or one world citizenship.

#### *American Counsel*

SEC. 202. None of the funds appropriated by this title may be used to pay the compensation of any person hereafter employed as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

#### *United States Information Agency*

For expenses necessary to enable the United States Information Agency, as authorized by Reorganization Plan Numbered 8 of 1953, and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international information activities, including employment, without regard to the civil service and classification laws, of (1) persons on a temporary basis (not to exceed \$20,000), (2) aliens within the United States, and (3) aliens abroad for service in the United States relating to the translation or narration of colloquial speech in foreign languages (such aliens to be investigated for such employment in accordance with procedures established by the Director of the Agency).

#### *Criminal Activity*

SEC. 704. No part of the funds appropriated by this Act shall be used to pay the salary of any Federal employee who is finally convicted in any Federal, State, or local court of competent jurisdiction of inciting, promoting, or carrying on a riot resulting in material damage to property or injury to persons, found to be in violation of Federal, State, or local laws designed to protect persons or property in the community concerned.

SEC. 705. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of, or any remuneration whatever to any individual apply-

ing for admission, attending, employed by, teaching at or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials or students in such institution from engaging in their duties or pursuing their studies at such institution.

Department of Defense Appropriation Act, 1973 (86 Stat. 1184) :

#### NONCITIZENS

SEC. 701. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

#### ROTC LOYALTY OATH

SEC. 723. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

#### CRIMINAL ACTIVITY

SEC. 739. No part of the funds appropriated under this Act shall be used to pay salaries of any Federal employee who is convicted in any Federal, State, or local court of competent jurisdiction, of inciting, promoting or carrying on a riot, or any group activity resulting in material damage to property or injury to persons, found to be in violation of Federal, State, or local laws designed to protect persons or property in the community concerned.

SEC. 744. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

Departments of Labor and Health, Education, and Welfare and Related Agencies Appropriation Act, 1972 (85 Stat. 301).—*General provisions:*

SEC. 407. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual apply-

ing for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

Atomic Energy Commission Appropriation Act, 1972 (85 Stat. 366)—*Restriction on fellowships:*

SEC. 102. No part of any appropriation herein shall be used to confer a fellowship on any person who advocates or who is a member of an organization or party that advocates the overthrow of the Government of the United States by force or violence or with respect to whom the Commission finds, upon investigation and report by the Civil Service Commission on the character, associations, and loyalty of whom, that reasonable grounds exist for belief that such person is disloyal to the Government of the United States: *Provided*, That any person who advocates or who is a member of an organization or party that advocates the overthrow of the Government of the United States by force or violence and accepts employment or a fellowship the salary, wages, stipend, grant, or expenses for which are paid from any appropriation contained herein shall be guilty of a felony, and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law.

Office of Education and Related Agencies Appropriation Act, 1972 (85 Stat. 103).—*Restrictions:*

SEC. 305. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

Library of Congress—Legislative Branch Appropriation Act, 1973 (86 Stat. 432), approved August 10, 1972, contains the following provision:

Appropriations in this Act available to the Library of Congress for salaries shall be available for expenses of investigating the loyalty of Library employees; \* \* \*



### Part III

## THE FEDERAL SECURITY PROGRAM

### SECTION A. CHRONOLOGICAL TABLE OF STATUTES AND EXECUTIVE ORDERS THROUGH 1960

#### FEDERAL EMPLOYEES LOYALTY OATH

R.S. § 1757, as last amended by Act of September 6, 1966 (80 Stat. 424) ; 5 U.S.C. 16—*Oath of Office* :

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." This section does not affect other oaths required by law.

#### HATCH ACT

Act of August 2, 1939, section 9A (53 Stat. 1148)—*The Hatch Act*—found in Titles 5 and 18 of the United States Code, both of which have been enacted into positive law. Section 9A (5 U.S.C. 7311; 18 U.S.C. 1918) :

Provides that it shall be unlawful for any person employed by the Federal Government, whose compensation is paid from funds authorized or appropriated by Congress, to have membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States. If already employed, such a person shall be immediately removed from his position and thereafter no part of the funds appropriated by Congress for such position shall be used to pay the compensation of such person. This provision has been repealed and superseded by P.L. 330, 84th Cong., which appears on p. 700, below.

Although there had been a previous provision in a temporary act (act of June 30, 1939; 53 Stat. 935, sec. 18) which forbade the use of emergency relief funds to pay persons who advocate the overthrow of the Government of the United States by force or violence, this provision of section 9A of the Hatch Act was the first permanent provision of law barring from Government employment persons who are not loyal to our form of government.

## WORK RELIEF PROJECTS

Act of June 26, 1940 (54 Stat. 620, sec. 15 (f))—*Emergency Relief Appropriation Act*—provided that Aliens, Communists, and members of Nazi Bund organizations were not to be given employment on any work project prosecuted under appropriations made by that act.

Act of June 28, 1940, section 6 (54 Stat. 679), and the act of December 17, 1942, section 3 (56 Stat. 1053, ch. 739, which was repealed and superseded, 64 Stat. 476, ch. 803, post.), authorized the Secretary of War and the Secretary of the Navy, during the war, to summarily remove any employee in the interest of national security without regard to any provision of law, rules, or regulations governing the removal of employees. An employee so removed was to be given the opportunity to be informed within 30 days, of the reasons for such removal, and was given the right to submit affidavits within 30 days thereafter to show why he should be retained. This authority was also extended to the Secretaries of Defense and Air Force (63 Stat. 1023, sec. 630, superseded by 64 Stat. 476, post.).

## GENERAL APPROPRIATION ACTS

In 1941, *all appropriation acts* carried the following provision:

No part of any appropriation contained in this Act shall be used to pay the salary or wages of any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided*, that for the purposes hereof an affidavit shall be considered prima facie evidence that the person making the affidavit does not advocate, and is not a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided further*, That any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force and violence and accepts employment the salary or wages for which are paid from any appropriation contained in this Act shall be guilty of a felony and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to and not in substitution for, any other provision of existing law. 55 Stat. 123, sec. 5.

In 1955, however, this provision was dropped from the appropriation acts, and was replaced by the provision contained in P.L. 330, enacted on August 9, 1955 (69 Stat. 624, ch. 690), which prohibits the employment by the Government of the United States of persons who are disloyal or who participate in or assert the right to strike against the Government of the United States. P.L. 330, 84th Congress, as amended, appears in detail on p. 700, below.

## CIVIL SERVICE WAR REGULATION

November 30, 1941: The Civil Service Commission issued War Service Regulation 2, section 3(g) of which provides that a person may be disqualified for appointment or for examination if there exists a reasonable doubt as to his loyalty to the Government of the United States.

## INTERDEPARTMENTAL COMMITTEE ON INVESTIGATIONS

In April of 1942 the Attorney General created a special Interdepartmental Committee on Investigations, composed of officials representing the Interior, Treasury, Commerce, and Justice Departments and the Federal Deposit Insurance Corporation. This was done in response to a request from various departments for the establishment of a central source to issue advice on the handling of cases where complaints had been made against Federal employees who were alleged to be disloyal.

This Interdepartmental Committee on Investigations distributed information to the departments and agencies regarding the investigative procedures followed by the Federal Bureau of Investigation, the nature and purpose of their reports and the necessity for establishing sound procedures within each department and agency. Upon request this committee reviewed the records in individual cases and rendered an advisory opinion. Only a small number of such requests were made (report of President's Temporary Commission on Employee Loyalty, 1947, p. 6).

## INTERDEPARTMENTAL COMMITTEE

*Executive Order 9300*, dated February 5, 1943 (8 F.R. 1701), replaced the Attorney General's interdepartmental committee with a new "Interdepartmental Committee" on employee investigations, in the Department of Justice, composed of officials representing the Treasury Department, the Interior Department, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Civil Service Commission. This committee was concerned with permanent employees only and served as an advisory board only, having no authority to enforce its findings on any agency or department. It confined itself to the statutory provisions of the applicable laws dealing with the problem, and deemed an employee removable on loyalty grounds only if it was established that the employee was a member of an organization advocating the overthrow of our constitutional form of government, or that the employee advocated the use of force or violence as a means of changing our form of government.

The interdepartmental committee was replaced by the Loyalty Review Board in the Civil Service Commission. (See *Executive Order 9835*, post.)

## HOUSE INVESTIGATION OF FEDERAL POLICIES

January 18, 1945: The House of Representatives agreed to House Resolution 66 (79th Cong., 1st sess.; 91 Congressional Record, p. 335), authorizing the House Civil Service Committee to conduct studies and investigations of the policies and practices pertaining to Federal employment. Pursuant to this authority, the Committee on Civil Service created a subcommittee "to make such investigation as it may deem proper with respect to employee loyalty and employment policies and practices in the Government of the United States, and to make a report to this committee prior to the recess or ad-

jourment, together with such recommendations as it deems advisable."

The subcommittee submitted its report, stating that many conditions cannot be remedied by mere changes in techniques or by issuance of directives, and recommended that adequate protective measures be adopted to see that persons of questioned loyalty are not permitted to enter into Federal service. The report specifically recommended that an Interdepartmental Commission be created to study existing laws and the adequacy of existing legislation, and to devise by legislation or otherwise, ways and means of eliminating without delay employees in every department or agency of Government where there is reasonable doubt concerning their loyalty. Such a Commission was created by Executive Order 9806, dated November 25, 1946 (11 F.R. 13863).

#### SUMMARY SUSPENSION

Act of July 5, 1946, title I (60 Stat. 458), authorized the Secretary of State, in his absolute discretion, on or before June 30, 1947, to terminate the employment of any officer or employee of the Department of State or of the Foreign Service of the United States whenever he shall deem such termination advisable in the interests of the United States, but an employee so terminated was not barred from seeking employment in another agency. A similar authorization was repeated in the Department of State Appropriation Act, 1948, approved July 9, 1947 (61 Stat. 288); 1949, approved June 3, 1948 (62 Stat. 315, sec. 104); and 1950, approved July 20, 1949 (63 Stat. 456, sec. 4). This latter authorization was repealed (64 Stat. 476, sec. 4) and superseded by act of August 26, 1950 (64 Stat. 476, ch. 803, post). However, the provision again appeared in the Department of State Appropriation Act, 1951, approved September 6, 1950 (64 Stat. 768, sec. 1213); 1952, approved October 22, 1951 (65 Stat. 581, sec. 103); and 1953, approved July 10, 1952 (66 Stat. 555, sec. 103) but was omitted from the Department of State Appropriation Act, 1954, approved August 5, 1953 (Public Law 195, 83d Cong.).

A similar provision authorizing the Secretary of Commerce to so terminate the employment of any officer or employee in the Department of Commerce, was contained in the Department of Commerce Appropriation Act, 1952, approved October 22, 1951 (65 Stat. 594, sec. 304) and in the Department of Commerce Appropriation Act, 1953, approved July 10, 1952 (66 Stat. 567, sec. 304), but was omitted from the Department of Commerce Appropriation Act, 1954, approved August 5, 1953 (Public Law 195, 83d Cong.).

#### PRESIDENT'S TEMPORARY COMMISSION ON LOYALTY

*Executive Order 9806*, dated November 25, 1946 (11 F.R. 13863), established this Commission.

*Authority to establish.*—The President's authority to create this Commission stemmed from Revised Statutes, section 1753, which authorizes the President to regulate admission into the civil service, and from section 214 of the act of May 3, 1945 (59 Stat. 134), which



provides that appropriations of the executive departments and independent establishments of the Government shall be available for the expenses of committees, boards, or other interagency groups engaged in authorized activities of common interest to such departments and establishments and composed in whole or in part of representatives thereof who receive no additional compensation by virtue of such membership.

*Membership.*—The Commission was composed of one representative of the Departments of Justice, State, Treasury, War, and Navy, and the Civil Service Commission, with the Justice Department representative serving as chairman, and all the members serving without compensation. All other agencies were ordered to cooperate with this Commission.

*Functions.*—(1) To inquire into the standards, procedures, and organizational provisions for investigation of Federal employees or applicants for Federal employment, and for removal or disqualification from employment of any disloyal or subversive person; and (2) to submit a report to the President of its findings together with recommendations as to (a) the adequacy of existing security procedure, (b) desirable standards for judging loyalty of employees, (c) proper procedures, etc.

The Commission submitted its report in 1947 (Library of Congress Classification JK 730.A4 1947).

#### LOYALTY REVIEW BOARD

*Executive Order 9835*, dated March 21, 1947 (12 F.R. 1935), provides for investigative procedure of applicants for Federal employment, requiring investigation of persons entering competitive civil service, to be made by the Civil Service Commission, and investigation of persons other than those entering the competitive service, to be conducted by the employing department or agency. The order lists the following sources of information which shall be referred to: (a) Federal Bureau of Investigation files, (b) Civil Service Commission files, (c) military and naval intelligence files, (d) files of any other appropriate Government investigative or intelligence agency, (e) House Committee on Un-American Activities files, (f) local law-enforcement files at place of residence and employment of applicant, (g) schools and colleges, (h) former employers, and (i) any other appropriate source.

The order places the responsibility for an effective program of dismissal of disloyal employees directly upon the head of each department and agency and provides for the creation of a loyalty board in each agency to hear loyalty cases arising in the agency and to make recommendations with respect to the removal of any officer or employee on grounds relating to loyalty.

A Loyalty Review Board is established in the Civil Service Commission, which shall have authority to review cases involving persons recommended for dismissal by the loyalty boards of the departments or agencies, and to make advisory recommendations thereon to the head of the employing department. The order provides for security measures in investigations.



Part V of the order sets up standards for refusal of employment or for removal of employees. This part has been amended by Executive Order 10241, dated April 28, 1951 (16 F.R. 3690), which provides that the standard for refusal of employment or removal from employment in an executive department or agency on grounds relating to loyalty shall be, that, on all the evidence, there is a reasonable doubt as to the loyalty of the person involved. The order sets out a list of activities and associations which may be considered in connection with the determination of disloyalty.

This order (9835) has been revoked by Executive Order 10450 of April 27, 1953, below.

### CONFIDENTIAL STATUS OF EMPLOYEE LOYALTY FILES

*Presidential Directive* of March 13, 1948 (13 F.R. 1359) provides a confidential status for employee loyalty records:

#### Directive of March 13, 1948

#### [CONFIDENTIAL STATUS OF EMPLOYEE LOYALTY RECORDS]

#### MEMORANDUM TO ALL OFFICERS AND EMPLOYEES IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

The efficient and just administration of the Employee Loyalty Program, under Executive Order No. 9835 of March 21, 1947, requires that reports, records, and files relative to the program be preserved in strict confidence. This is necessary in the interest of our national security and welfare, to preserve the confidential character and sources of information furnished, and to protect Government personnel against the dissemination of unfounded or disproved allegations. It is necessary also in order to insure the fair and just disposition of loyalty cases.

For these reasons, and in accordance with the long-established policy that reports rendered by the Federal Bureau of Investigation and other investigative agencies of the executive branch are to be regarded as confidential, all reports, records, and files relative to the loyalty of employees or prospective employees (including reports of such investigative agencies), shall be maintained in confidence, and shall not be transmitted or disclosed except as required in the efficient conduct of business.

Any subpoena or demand or request of information, reports, or files of the nature described, received from sources other than those persons in the executive branch of the Government who are entitled thereto by reason of their official duties, shall be respectfully declined on the basis of this directive, and the subpoena or demand or other request shall be referred to the Office of the President for such response as the President may determine to be in the public interest in the particular case. There shall be no relaxation of the provisions of this directive except with my express authority.

LA FOLLETTE-LLOYD ACT <sup>71</sup>

Act of June 10, 1948 (62 Stat. 356 c. 447 § "6(d)") amended section 6(d) of the Act of August 24, 1912 (37 Stat. 555 § 6, 5 U.S.C. 7102) to read as follows:

(d) The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with.

## SENATE INVESTIGATION OF FEDERAL EMPLOYEES LOYALTY PROGRAM

June 19, 1948: The Investigations Subcommittee of the Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) submitted its report (S. Rept. 1775, 80th Cong., 2d sess.). This subcommittee had been operating pursuant to Senate Resolution 189. The report was entitled "Investigation of Federal Employees Loyalty Program" and brought out certain inadequacies which, it claimed, existed in the Federal loyalty program at that time:

1. The operation of the present loyalty program has been unreasonably delayed. The Loyalty Review Board, which is responsible for formulation of policies, was not established until December 1947, months after the program was initiated. Even now, more than 17 months after the issuance of the Executive order, the organization of the loyalty boards has not been completed and the loyalty regulations of some of the agencies have yet to be approved. The time that already has been lost is priceless. Immediate steps must be taken to expedite the operation of the program.

2. The policy directives of the Loyalty Review Board, which is charged with the coordination of employee loyalty policies and procedures, are ambiguous and have resulted in confusion among the agencies. A uniform program cannot be expected without uniform direction. These directives should be revised immediately with a view to prescribing specific loyalty policies and procedures for the uniform guidance of the agencies.

3. No attempt has been made to give priority or special treatment to the investigation of employees occupying positions which permit them access to confidential material. Regardless of the nature of the information disclosed concerning an employee, all cases are given the same routine treatment. The case of an employee suspected of being an espionage agent, with daily access to highly confidential information, is given the same routine treatment as the case of an elevator operator who is alleged to be affiliated with a suspected front organization. Obviously, each case must be handled on its merits. Serious charges of disloyalty and charges against employees in sensitive positions must be handled expeditiously.

4. Applicants for Federal positions are still appointed prior to any investigation whatsoever as to their loyalty. This is true even in the

<sup>71</sup> Although this Act would not ordinarily be termed a security measure, it has been included in this compilation because it has become a topic of wide interest and discussion.

cases of appointees to important, sensitive positions. Under the present system disloyal appointees may be in office for a period of at least 120 days, and there is no provision for the suspension or dismissal of such an appointee until the entire investigative and adjudication procedure has been completed. During this period, presumably, the employee has access to confidential material. This means that an espionage agent appointed to a sensitive position in the Federal Government is assured of at least 120 days in which to exploit his position. The subcommittee strongly urges that at least a preliminary investigation of the loyalty of all applicants for Federal employment should be made prior to appointment and no applicant should be appointed to a sensitive position unless his loyalty has been clearly demonstrated or has been subjected to thorough investigation. Agency heads must determine the sensitive positions within their agencies and investigations of applicants for such positions must be expedited.

5. The procedure for notifying employing agencies of the existence of derogatory information concerning an employee during the course of investigation and loyalty adjudication is inadequate, and results in dangerous delays in administrative action by the head of the employing agency in cases warranting such action. The subcommittee believes that a timely disclosure of the derogatory information developed concerning an employee should and must be made to the head of the employing agency as soon as the information is discovered, to permit the agency head to take such administrative action as might be necessary for the security of his agency.

6. Once a Federal employee has been checked for loyalty and cleared, he apparently is considered cleared for the balance of his governmental career, regardless of a change in the sensitiveness of his position or a change in the character of his loyalty. Some system must be devised for follow-up loyalty investigations, so that the loyalty program, at least in the case of sensitive positions, will be maintained on a current basis.

7. The Civil Service Commission and the various agencies have failed to advise the Federal Bureau of Investigation of the final action taken in loyalty cases where the Bureau has made a full investigation. The Bureau should receive this notice so that its files will be complete.

8. The procedures established for the determination of loyalty under the present system are incompatible with an entirely objective approach to the loyalty of suspected employees. The tendency of agency heads and of fellow employees to minimize charges, the joint role of prosecutor and judge, and the fact that board members do not devote full time to their board duties, are all factors diminishing the fairness and effectiveness of the present loyalty board system. Serious consideration should be given to divorcing the Loyalty Review Board from the Civil Service Commission and the establishment of an independent full-time board appointed by the President within the executive branch of the Government. Consideration also should be given to divorcing the agency and regional loyalty boards from the agencies and the Civil Service Commission and assigning their functions to independent full-time boards.

9. The present policy of the executive branch of the Government of refusing to furnish information to this subcommittee concerning the

handling of loyalty cases has made our task most difficult. If the subcommittee is denied the right to examine the facts in specific cases where there appears to be a break-down in the loyalty program, it cannot make a complete appraisal of the program. The subcommittee will continue its efforts to obtain that information which it believes to be essential to the furtherance of this investigation.

### PUBLIC HEALTH SERVICE

*Executive Order 10031*, dated January 26, 1949 (14 F.R. 377), provides that the loyalty of commissioned officers of the Public Health Service shall be subject to investigation, review, and determination in accordance with the procedure established by Executive Order 9835, *supra*, and if the Administrator finds "that reasonable grounds exist for a belief that an officer of the Service is disloyal" to the Government of the United States, such officer shall be separated from the Service.

This order has been amended and superseded by *Executive Order 10280*, dated August 16, 1951 (16 F.R. 8227), which provides that if the Administrator finds that "on all the evidence, there is a reasonable doubt as to the loyalty" of the officer involved, such officer shall be separated from the Service.

*Executive Order 10497*, dated October 27, 1953 (18 F.R. 6815) further amends these prior Executive orders by making applicable to commissioned officers of the Public Health Service and to candidates for commission, the security provisions of Executive Order 10450, *post*, dated April 27, 1953 (18 F.R. 2489) applying to Federal officers and employees.

### SUMMARY SUSPENSION

Act of August 26, 1950 (64 Stat. 476, ch. 803), as amended by § 301 (c) of P.L. 85-568 (72 Stat. 432); 5 U.S.C. 7532—*Summary dismissal of certain employees in sensitive agencies as poor security risks*—authorizes the heads of certain specified Government departments and agencies engaged in sensitive activities to summarily suspend employees considered to be poor security risks, and to terminate their services if subsequent investigation develops facts which support such action. The individual so suspended has a right of employment in other nonsensitive agencies or departments, provided that the Civil Service Commission determines that he is so eligible. However, with respect to the agency from which he has been summarily suspended, the decision of the head of that agency shall be final and conclusive and no appeal from said decision is provided for.

The suspended employee shall be given a written statement of the charges against him, within 30 days after his suspension, and a reasonable opportunity to answer such charges at a hearing through submission of affidavits to an official designated by the head of the agency. The agency head shall review the case before making the final decision of termination (sec. 1).

This act shall not impair the powers vested in the Atomic Energy Commission covering its control over the loyalty and security of its employees (sec. 2).



The President may extend the coverage of this act to any department or agency, when he deems it to be necessary in the best interests of national security. If the President includes other agencies in the coverage of this Act, he shall submit a report of this action to the Committees on Armed Services of the Congress (sec. 3).

The agencies which are covered by this act are Departments of State, Commerce, Justice, Defense, Army, Navy, Air Force, Coast Guard, Atomic Energy Commission, National Security Resources Board, and the National Advisory Committee for Aeronautics (sec. 1). Executive Order 10237 of April 26, 1951 (16 F.R. 3627), extends the provisions of this act to the Panama Canal and to the Panama Railroad Company. This coverage was extended to all agencies by E.O. 10450 § 1 (see p. 670 following).

### COMMUNISTS

Act of September 23, 1950 (64 Stat. 991-993, secs. 4(b), (5); 50 U.S.C. 783 (b), 784—*The Internal Security Act of 1950*—provides that it shall be unlawful for an officer or employee of the United States to communicate to any person who he has reason to believe is an agent of a foreign Government or a member of a Communist organization, any information which has been classified as affecting the security of the United States (sec. 4 (b)).

*Employment of members of Communist organizations.*—When a Communist organization is registered or is required to register, it shall be unlawful for any member of such organization (a) in seeking or holding employment, to fail to disclose his membership in such organization, (b) to hold nonelective office or employment under the United States, (c) in seeking or holding employment in a defense facility, to fail to disclose such membership, and (d) if such organization is a Communist-action organization, to engage in any employment in any defense facility.

It shall be unlawful for any employee of the Federal Government or of any defense facility to contribute funds or services to a Communist organization which is required to register. It shall be unlawful to counsel any person to violate the provisions of this section (sec. 5).

*Executive Order 10207*, dated January 23, 1951 (16 F.R. 709), established the President's Commission on Internal Security and Individual Rights and, among other things, authorized it to consider the Government employee-loyalty program. This order was revoked by Executive Order 10305, dated November 14, 1951 (16 F.R. 11667), and the affairs of the Commission were liquidated.

### PRESENT SECURITY PROGRAM <sup>72</sup>

Act of September 6, 1966 (8 Stat. 524, 609); 5 U.S.C. 7311, 18 U.S.C. 1918:

§ 7311. *Loyalty and striking.*—An individual may not accept or

<sup>72</sup> For a list of organizations designated by the Attorney General pursuant to this Executive Order, see Part VI, section A of this Manual.



hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

18 U.S.C. 1918. *Disloyalty and asserting the right to strike against the Government.*—Whoever violates the provision of section 7311 of title 5 that an individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia;

shall be fined not more than \$1,000 or imprisoned not more than one year and a day, or both.

Act of September 6, 1966 (80 Stat. 529); 5 U.S.C. 7531–7533—*Suspension and Removal*;

§ 7531. *Definitions.*—For the purpose of this subchapter, “agency” means—

(1) the Department of State;

(2) the Department of Commerce;

(3) the Department of Justice;

(4) the Department of Defense;

(5) a military department;

(6) the Coast Guard;

(7) the Atomic Energy Commission;

(8) the National Aeronautics and Space Administration;

and

(9) such other agency of the Government of the United States as the President designates in the best interests of national security.

The President shall report any designation to the Committees on the Armed Services of the Congress.

§ 7532.—*Suspension and removal.*—(a) Notwithstanding other statutes, the head of an agency may suspend without pay an employee of his agency when he considers that action necessary in the interests of national security. To the extent that the head of the agency determines that the interests of national security permit, the suspended employee shall be notified of the reasons for the suspension. Within 30 days after the notification, the suspended employee is entitled to submit to the official designated by the head of the agency statements or affidavits to show why he should be restored to duty.

(b) Subject to subsection (c) of this section, the head of an agency may remove an employee suspended under subsection (a) of this section when, after such investigation and review as he considers necessary, he determines that removal is necessary or advisable in the interests of national security. The determination of the head of the agency is final.

(c) An employee suspended under subsection (a) of this section who—

- (1) has a permanent or indefinite appointment;
- (2) has completed his probationary or trial period; and
- (3) is a citizen of the United States;

is entitled, after suspension and before removal, to—

(A) a written statement of the charges against him within 30 days after suspension, which may be amended within 30 days thereafter and which shall be stated as specifically as security considerations permit;

(B) an opportunity within 30 days thereafter, plus an additional 30 days if the charges are amended, to answer the charges and submit affidavits;

(C) a hearing, at the request of the employee, by an agency authority duly constituted for this purpose;

(D) a review of his case by the head of the agency or his designee, before a decision adverse to the employee is made final; and

(E) a written statement of the decision of the head of the agency.

§ 7533.—*Effect on other statutes.*—This subchapter does not impair the powers vested in the Atomic Energy Commission by chapter 23 of title 42, or the requirement in section 2201(d) of title 42 that adequate provision be made for administrative review of a determination to dismiss an employee of the Atomic Energy Commission.

Executive Order 10450 of April 29, 1953 (18 FR 2489) as amended by Executive Orders 10491, 10531, 10548, 10550, 11605 (18 FR 6583, 19 FR 3069, 19 FR 4817, 19 FR 4981, 36 FR 12831)—*Security Requirements for Government Employment*:<sup>73</sup>

<sup>73</sup> Act of October 25, 1972 (86 Stat. 1109) appropriated funds for salaries and expenses for the Subversive Activities Control Board in fiscal 1973 but prohibited them from being used to carry out provisions of Executive Order 11605. See, section 706. No funding was requested for the Board for fiscal 1974. The Budget of the United States Government, Fiscal Year 1974, p. 951.

WHEREAS the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U.S.C. 631); the Civil Service Act of 1883 (22 Stat. 403; 5 U.S.C. 632, *et seq.*); section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U.S.C. 118j); and the act of August 26, 1950, 64 Stat. 476 (5 U.S.C. 22-1, *et seq.*), and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows:

SECTION 1. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237 of April 26, 1951 (3 CFR, 1949-1953 Comp., p. 748), the provisions of that act shall apply to all other departments and agencies of the Government.

SEC. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

SEC. 3. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation: *Provided*, that upon request of the head of the department or agency concerned, the Civil Service Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States.

Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investigation, or such less investigation as shall be sufficient to enable the head of the department or agency concerned to determine whether retention of such person is clearly consistent with the interests of the national security.

(b) The head of any department or agency shall designate, or cause to be designated, any position within his department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position. Any position so designated shall be filled or occupied only by a person with respect to whom a full field investigation has been conducted: *Provided*, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this order: *And provided further*, that in case of emergency a sensitive position may be filled for a limited period by a person with respect to whom a full field preappointment investigation has not been completed if the head of the department or agency concerned finds that such action is necessary in the national interest, which finding shall be made a part of the records of such department or agency.

SEC. 4. The head of each department and agency shall review, or cause to be reviewed, the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947 (3 CFR, 1943-1948 Comp., p. 627), and, after such further investigation as may be appropriate, shall re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, such of those cases as have not been adjudicated under a security standard commensurate with that established under this order.

SEC. 5. Whenever there is developed or received by any department or agency information indicating that the retention in employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may be appropriate, shall review, or cause to be reviewed, and, where necessary, re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, the case of such officer or employee.

SEC. 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such

suspension necessary in the interests of the national security and, following such investigation and review as he deems necessary, the head of the department or agency concerned shall terminate the employment of such suspended officer or employee whenever he shall determine such termination necessary or advisable in the interests of the national security, in accordance with the said act of August 26, 1950.

SEC. 7. Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the same department or agency and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the records of such department or agency: *Provided*, that no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Civil Service Commission that such person is eligible for such employment.

SEC. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(iv) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

[Subdivision (iv) revised by E.O. 10548, 19 F.R. 4871, Aug. 4, 1954]

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspir-



ing with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Knowing membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organization) which is totalitarian, fascist, communist, subversive, or which has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means.

[Paragraph (5) revised by E.O. 11605, 36 F.R. 12831, July 8, 1971]

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(8) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct.

[Paragraph (8) added by E.O. 10491, 18 F.R. 6583, Oct. 16, 1953]

(b) The investigation of persons entering or employed in the competitive service shall primarily be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Commission. The Commission shall furnish a full investigative report to the department or agency concerned.

(c) The investigation of persons (including consultants, however employed), entering employment of, or employed by, the Government other than in the competitive service shall primarily be the responsibility of the employing department or agency.

Departments and agencies without investigative facilities may use the investigative facilities of the Civil Service Commission, and other departments and agencies may use such facilities under agreement with the Commission.

(d) There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in subdivisions (2) through (8) of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation.

[ (d) as amended by E.O. 10531, 19 F.R. 3069, May 28, 1954 ]

SEC. 9. (a) There shall be established and maintained in the Civil Service Commission a security-investigations index covering all persons as to whom security investigations have been conducted by any department or agency of the Government under this order. The central index established and maintained by the Commission under Executive Order No. 9835 of March 21, 1947, shall be made a part of the security-investigations index. The security-investigations index shall contain the name of each person investigated, adequate identifying information concerning each such person, and a reference to each department and agency which has conducted an investigation concerning the person involved or has suspended or terminated the employment of such person under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950.

(b) The heads of all departments and agencies shall furnish promptly to the Civil Service Commission information appropriate for the establishment and maintenance of the security-investigations index.

(c) The reports and other investigative material and information developed by investigations conducted pursuant to any statute, order, or program described in section 7 of this order shall remain the property of the investigative agencies conducting the investigations, but may, subject to considerations of the national security, be retained by the department or agency concerned. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto except, with the consent of the investigative agency concerned, to other departments and agencies conducting security programs under the authority granted by or in accordance with the said act of August 26, 1950, as may be required for the efficient conduct of Government business.

SEC. 10. Nothing in this order shall be construed as eliminating or modifying in any way the requirement for any investigation or any determination as to security which may be required by law.

SEC. 11. On and after the effective date of this order the Loyalty Review Board established by Executive Order No. 9835 of March 21, 1947, shall not accept agency findings for review, upon appeal or otherwise. Appeals pending before the Loyalty Review Board on such date shall be heard to final determination in accordance with the provisions of the said Executive Order No. 9835, as amended. Agency determinations favorable to the officer or employee concerned pending before the Loyalty Review Board on such date shall be acted upon by such Board, and whenever the Board is not in agreement with such favorable determination the case shall be remanded to the department or agency concerned for determination in accordance with the standards and procedures established pursuant to this order. Cases pending before the regional loyalty boards of the Civil Service Commission on which hearings have not been initiated on such date shall be referred to the department or agency concerned. Cases being heard by regional loyalty boards on such date shall be heard to conclusion, and the determination of the board shall be forwarded to the head of the department or agency concerned: *Provided*, that if no specific department or agency is involved, the case shall be dismissed without prejudice to the applicant. Investigations pending in the Federal Bureau of Investigation or the Civil Service Commission on such date shall be completed, and the reports thereon shall be made to the appropriate department or agency.

SEC. 12. (a) Executive Order No. 9835 of March 21, 1947, as amended is hereby revoked.

(b) The head of each department and agency shall be furnished by the Attorney General with the name of each organization which shall be or has been heretofore designated under this order. Except as specifically provided hereafter, nothing contained herein shall be construed in any way to affect previous designations made pursuant to Executive Order No. 10450, as amended.

(c) The Subversive Activities Control Board shall, upon petition of the Attorney General, conduct appropriate hearings to determine whether any organization is totalitarian, fascist, communist, subversive, or whether it has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means.

(d) The Board may determine that an organization has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their constitutional or statutory rights or that an organization seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means if it is found that such group engages in, unlawfully advocates, or has among its purposes or

objectives, or adopts as a means of obtaining any of its purposes or objectives.—

(1) The commission of acts of force or violence or other unlawful acts to deny others their rights or benefits guaranteed by the Constitution or laws of the United States or of the several States or political subdivisions thereof; or

(2) The unlawful damage or destruction of property; or injury to persons; or

(3) The overthrow or destruction of the government of the United States or the government of any State, Territory, district, or possession thereof, or the government of any political subdivision therein, by unlawful means; or

(4) The commission of acts which violate laws pertaining to treason, rebellion or insurrection, riots or civil disorders, seditious conspiracy, sabotage, trading with the enemy, obstruction of the recruiting and enlistment service of the United States, impeding officers of the United States, or related crimes or offenses.

(e) The Board may determine an organization to be "totalitarian" if it is found that such organization engages in activities which seek by unlawful means the establishment of a system of government in the United States which is autocratic and in which control is centered in a single individual, group or political party, allowing no effective representation to opposing individuals, groups, or parties and providing no practical opportunity for dissent.

(f) The Board may determine an organization to be "fascist" if it is found that such organization engages in activities which seek by unlawful means the establishment of a system of government in the United States which is characterized by rigid one-party dictatorship, forcible suppression of the opposition, ownership of the means of production under centralized governmental control and which fosters racism.

(g) The Board may determine an organization to be "communist" if it is found that such organization engages in activities which seek by unlawful means the establishment of a government in the United States which is based upon the revolutionary principles of Marxism-Leninism, which interprets history as a relentless class war aimed at the destruction of the existing society and the establishment of the dictatorship of the proletariat, the government ownership of the means of production and distribution of property, and the establishment of a single authoritarian party.

(h) The Board may determine an organization to be "subversive" if it is found that such organization engages in activities which seek the abolition or destruction by unlawful means of the government of the United States or any State, or subdivision thereof.

(i) The Board may further determine, after consideration of the evidence, that an organization has ceased to exist. Upon



petition of the Attorney General or upon petition of any organization which has been designated pursuant to this section the Board after appropriate hearings may determine that such organization does not currently meet the standards for designation. The Attorney General shall appropriately revise or modify the information furnished to departments and agencies consistent with the determinations of the Board.

(j) The Board shall issue appropriate regulations for the implementation of this section.

[Sec. 12 revised by E.O. 11605, 36 F.R. 12831, July 8, 1971]

SEC. 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee-security program.

SEC. 14. (a) The Civil Service Commission, with the continuing advice and collaboration of representatives of such departments and agencies as the National Security Council may designate, shall make a continuing study of the manner in which this order is being implemented by the departments and agencies of the Government for the purpose of determining:

(1) Deficiencies in the department and agency security programs established under this order which are inconsistent with the interests of, or directly or indirectly weaken, the national security.

(2) Tendencies in such programs to deny to individual employees fair, impartial, and equitable treatment at the hands of the Government, or rights under the Constitution and laws of the United States or this order.

Information affecting any department or agency developed or received during the course of such continuing study shall be furnished immediately to the head of the department or agency concerned. The Civil Service Commission shall report to the National Security Council, at least semi-annually, on the results of such study, shall recommend means to correct any such deficiencies or tendencies, and shall inform the National Security Council immediately of any deficiency which is deemed to be of major importance.

[Last sentence amended by E.O. 10550, 19 F.R. 4981, Aug. 7, 1954]

(b) All departments and agencies of the Government are directed to cooperate with the Civil Service Commission to facilitate the accomplishment of the responsibilities assigned to it by subsection (a) of this section.

(c) To assist the Civil Service Commission in discharging its responsibilities under this order, the head of each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to a full field investigation under the provisions of this order, advise the Commission as to the action taken with respect to such officer or employee. The information furnished by the heads of departments and agencies



pursuant to this section shall be included in the reports which the Civil Service Commission is required to submit to the National Security Council in accordance with subsection (a) of this section. Such reports shall set forth any deficiencies on the part of the heads of departments and agencies in taking timely action under this order, and shall mention specifically any instances of noncompliance with this subsection.

[ (c) added by E.O. 10550, 19 F.R. 4981, Aug. 7, 1954 ]

SEC. 15. This order shall become effective thirty days after the date hereof. (Date: April 27, 1953)

## SAMPLE SECURITY REGULATIONS <sup>74</sup>

### REGULATIONS RELATING TO THE SECURITY PROGRAM OF THE [DEPARTMENT OR AGENCY]

Pursuant to the authority contained in the act of August 26, 1950, 64 Stat. 476, and (other laws that may be applicable), and Executive Order No. [10450] of [April 27], 1953, I hereby prescribe the following regulations relating to the security program of the [department or agency]:

#### SECTION 1. DEFINITIONS

(a) As used herein, the term "national security" relates to the protection and preservation of the military, economic, and productive strength of the United States, including the security of the Government in domestic and foreign affairs, against or from espionage, sabotage, and subversion, and any and all other illegal acts designed to weaken or destroy the United States.

<sup>74</sup> These regulations were recommended by the Department of Justice in connection with the issuance of Executive Order 10450 and have been adopted with varying changes by the departments and agencies of the government.

The regulations adopted by most departments and agencies typically require the employee to acquaint himself with statutory and other requirements relating to ethical and other conduct of government employment. See, for example, 5 C.F.R. §§731.201(f), 731.303, 732.401, 1001.735-214 (Civil Service and Civil Service Commission); 7 C.F.R. § 0.735-24 (Agriculture); 10 C.F.R. § 0.735-30 (Atomic Energy Commission); 12 C.F.R. §264.735-6 (Board of Governors, Federal Reserve System); 12 C.F.R. §336.735-19 (Federal Deposit Insurance Corporation); 12 C.F.R. §§400.735-17, 400.735-42 (Export-Import Bank of the United States); 12 C.F.R. §511.735-55 (Federal Home Loan Bank Board); 12 C.F.R. §601.115 (Farm Credit Administration); 13 C.F.R. §§105.735-5-2, 105.735-11 (Small Business Administration); 14 C.F.R. §370.735-44 (Civil Aeronautics Board); 14 C.F.R. §405.735-27 (National Transportation Safety Board); 14 C.F.R. § 1207.735-101 (National Aeronautics and Space Administration); 16 C.F.R. § 0.735-19 (Federal Trade Commission); C.F.R. §200.735-10 (Securities and Exchange Commission); 18 C.F.R. §3.735-11 (Federal Power Commission); 18 C.F.R. §300.735-20 (Tennessee Valley Authority); 18 C.F.R. §§601.123, 601.124, 601.125 (Environmental Protection Agency); 19 C.F.R. §200.735-113 (United States Tariff Commission); 22 C.F.R. §10.735-215 (Department of State; United States Information Agency; Agency for International Development); 22 C.F.R. §1201.735-413 (Peace Corps); 22 C.F.R. §§601.735-12, 601.735-24 (United States Arms Control and Disarmament Agency); 24 C.F.R. §0.735-214 (Housing and Urban Development); 25 C.F.R. §500.735-113 (Indian Claims Commission); 28 C.F.R. §45.735-21 (Department of Justice); 29 C.F.R. §0.735-28 (Department of Labor); 29 C.F.R. §100.735-22 (National Labor Relations Board); 29 C.F.R. § 1200.735-29 (National Mediation Board); 29 C.F.R. § 1400.735-21 (Federal Mediation and Conciliation Service); 29 C.F.R. § 1600.735.205 (Equal Employment Opportunity Commission); 31 C.F.R. § 0.735-55 (Treasury); 32 C.F.R. §§ 40.735-16, App. B 156.1-156.13 (Department of Defense); 32 C.F.R. § 1450.735-30 (Renegotiation Board); 32 C.F.R. § App. B 1600.735-71 (Selective Service Commission); 35 C.F.R. §§ 255.735-40, 255.735-56 (Canal Zone Regulations); 38 C.F.R. §§ 0.735-23, 0.735-56 (Veterans Administration); 43 C.F.R. § 20.735-36 (Interior Department); 45 C.F.R. § 73.735-201 App. A (Health Education and Welfare); 49 C.F.R. § 99.735-25, 99.735-59 App. B (Transportation).

(b) As used herein, the term "sensitive position" shall mean any position in the [department or agency] the occupant of which could bring about because of the nature of the position, a material adverse effect on the national security. Such positions shall include, but shall not be limited to, any position the occupant of which (1) may have access to security information or material classified as "confidential", "secret", or "top secret", or any other information or material having a direct bearing on the national security, and (2) may have opportunity to commit acts directly or indirectly adversely affecting the national security.

## SECTION 2. POLICY

It shall be the policy of the [department or agency], based on the said act of August 26, 1950, and [other acts or applicable law], and the said Executive Order No. [10450] to employ and to retain in employment only those persons whose employment or retention in employment is found to be clearly consistent with the interests of the national security.

## SECTION 3. SECURITY STANDARDS

(a) No person shall be employed, or retained as an employee, in the [department or agency] unless the employment of such person is clearly consistent with the interests of the national security.

(b) Information regarding an applicant for employment, or an employee, in the [department or agency] which may preclude a finding that his employment or retention in employment is clearly consistent with the interests of the national security shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(iv) An adjudication of insanity, or treatment for serious mental or neurological disorder without satisfactory evidence of cure.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security:

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests

may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

#### SECTION 4. SECURITY INVESTIGATIONS

(a) Security investigations conducted pursuant to these regulations shall be designed to develop information as to whether employment or retention in employment by the [department or agency] of the person being investigated is clearly consistent with the interests of the national security.

(b) Every appointment made within the [department or agency] shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check and written inquiries to appropriate local law-enforcement agencies, former employers and supervisors, references, and schools and colleges attended by the person under investigation: *Provided*, that to the extent authorized by the Civil Service Commission a less investigation may suffice with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should information develop at any stage of investigation indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investigation, or such less investigation as shall be sufficient to enable the [head of the department or agency] to determine whether retention of such person is clearly consistent with the interests of the national security.

(c) No sensitive position in the [department or agency] shall be filled or occupied by any person with respect to whom a full field

investigation has not been conducted: *Provided*, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of these regulations: *And provided further*, that in case of emergency a sensitive position may be filled for a limited period of time by a person with respect to whom a full field pre-appointment investigation has not been completed if the [head of the department or agency] finds that such action is necessary in the national interest. Such finding shall be made a part of the personnel record of the person concerned.

(d) Whenever a security investigation being conducted with respect to an employee of the [department or agency] develops information relating to any of the matters described in subdivisions 2 through 7 of subsection (b) of section 3 of these regulations, or indicates that an employee has been subject to coercion, influence, or pressure to act contrary to the interests of the national security, the matter shall be referred to the Federal Bureau of Investigation for a full field investigation.

(e) Investigation reports received from the Civil Service Commission or the Federal Bureau of Investigation shall be evaluated by the Personnel Security Officer of the [department or agency].

#### SECTION 5. SUSPENSION AND TERMINATION

(a) The authority conferred by the act of August 26, 1950, 64 Stat. 476, upon the heads of departments and agencies to which such act is applicable to suspend civilian employees, without pay, when deemed necessary in the interests of the national security is hereby delegated with respect to employees of the [department or agency] to the [officer or officers to whom delegation is desired].

(b) Upon receipt of an investigative report containing derogatory information relating to any of the matters described in subdivisions 2 through 7 of subsection (b) of section 3 of these regulations, the Personnel Security Officer of the [department or agency] shall immediately evaluate the report from the standpoint of the security of the [department or agency], and shall forward the report, together with the evaluation, to the [officer or officers having authority to suspend].

(c) Upon receipt of the investigative report and the evaluation of the Personnel Security Officer, the [officer having authority to suspend] shall make an immediate positive determination as to the necessity for suspension of the employee in the interests of the national security. If he deems such suspension necessary, the employee shall be suspended immediately. If he does not deem such suspension necessary, a written determination to that effect shall be made a part of the investigation file of the person concerned.

(d) Factors to be taken into consideration in making the determination required by subsection (c) of this section shall include, but shall not be limited to, (1) the seriousness of the derogatory information developed, (2) the possible access, authorized or unauthorized, of the employee to security information or material, and



(3) opportunity, by reason of the nature of the position, for committing acts adversely affecting the national security. Pending final determination in cases in which ameliorating circumstances are present, the employee may, with the approval of the Personnel Security Officer, be transferred temporarily to a position in which the interests of the national security cannot be adversely affected by the employee.

(e) In case the employee is suspended, the [officer concerned] shall notify the suspended employee as soon as possible of the reasons for his suspension. Such notice shall be in writing, and shall be as specific and detailed as security considerations, including the need for protection of confidential sources of information, permit.

(f) A suspended employee shall have the right to submit, within 30 days after notification of his suspension, to [a designated legal officer] statements and affidavits refuting or explaining the stated reasons for suspension. Such statements and affidavits shall be considered by the [legal officer] for sufficiency, and, after consultation with the Personnel Security Officer, a joint recommendation for the disposition of the case shall be made to the [head of the department or agency]. If the [legal officer] and the Personnel Security Officer are in disagreement, individual recommendations shall be made by them.

(g) On the basis of the recommendation or recommendations of the [legal officer] and the Personnel Security Officer and of his own review of the case, the [head of department or agency] shall make his determination of the case as follows:

(1) If he finds that reinstatement of the suspended employee in the position from which he has been suspended is clearly consistent with the interests of the national security, he shall restore the suspended employee to duty in such position, and the employee shall be compensated for the period of suspension.

(2) If he does not find that reinstatement in the position from which he has been suspended will be clearly consistent with the interests of the national security, but that employment of the suspended employee in another position in the [department or agency] is clearly consistent with the interests of the national security, he may restore the employee to duty in such other position.

(3) If he does not find that reinstatement of the suspended employee to any position in the [department or agency] is clearly consistent with the interests of the national security, he shall terminate the employment of the suspended employee.

(4) If the employment of the suspended employee is terminated, the employee shall be given a written notice of such termination.

(h) In addition to the protection granted by subsections (e) through (g) of this section to all employees of the [department or agency], any employee who is a citizen of the United States and who has a permanent or indefinite appointment and has completed his probationary or trial period shall be entitled to the following:

(1) A written statement of charges shall be furnished the employee within 30 days after his suspension. The statement shall be signed by the [officer concerned] and shall be as specific and detailed



as security considerations, including the need for protection of confidential sources of information, permit, and shall be subject to amendment within 30 days of issuance.

(2) An opportunity shall be afforded the employee to answer, within 30 days after issuance of the statement of charges or within 30 days after the amendment thereof, such charges and submit affidavits. Statements in refutation of the charges and supporting documents shall be forwarded to the [legal officer], who shall consult with the Personnel Security Officer to determine the sufficiency of the answer. The [legal officer] and the Personnel Security Officer shall make a joint recommendation to the [head of department or agency]. If the [legal officer] and the Personnel Security Officer are in disagreement, individual recommendations shall be made by them.

(3) The employee shall be given a hearing before a hearing board composed of at least three impartial, disinterested persons, selected in accordance with the procedure set forth in section 8 of these regulations. The hearing shall be conducted in strict accordance with the procedure set forth in section 9 of these regulations. The decision of the hearing board shall be in writing and shall be signed by all members of the board. One copy of the decision shall be sent to the [head of the department or agency], and one copy shall be sent to the suspended employee.

(4) The entire case shall be reviewed by the [head of department or agency] before a decision to terminate the employment of a suspended employee is made final. The review shall be based on a study of all the documents in the case, including the record of the hearing before the hearing board.

(5) The employee shall be furnished a written statement of the decision of the [head of department or agency].

(i) Copies of all notices of personnel action taken in security cases shall be supplied at once by the Personnel Security Officer to the Civil Service Commission.

#### SECTION 6. READJUSTMENT OF CERTAIN CASES

The Personnel Security Officer shall review all cases of employees of the [department or agency] with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947. After such further investigation as may be appropriate, such of these cases as have not been adjudicated under a security standard commensurate with that established by Executive Order No. 10450 of April 27, 1953, and these regulations shall be readjudicated in accordance with the said act of August 26, 1950, and these regulations.

#### SECTION 7. REEMPLOYMENT OF EMPLOYEES WHOSE EMPLOYMENT HAS BEEN TERMINATED

No person whose employment has been terminated by any department or agency other than the [department or agency] under or pursuant to the provisions of the said act of August 26, 1950, or

pursuant to the said Executive Order No. 9835 or any other security or loyalty program, shall be employed in the [department or agency] unless the [head of department or agency] finds that such employment is clearly consistent with the interests of the national security and unless the Civil Service Commission determines that such person is eligible for such employment. The finding of the [head of department or agency] and the determination of the Civil Service Commission shall be made a part of the personnel record of the person concerned.

#### SECTION 8. SECURITY HEARING BOARDS

(a) Security hearing boards of the [department or agency] shall be composed of not less than three civilian officers or employees of the Federal Government, selected by the [head of department or agency] from rosters maintained for that purpose by the Civil Service Commission in Washington, D.C. and at regional offices of the Commission.

(b) No officer or employee of the [department or agency] shall serve as a member of a security hearing board hearing the case of an employee of the [department or agency].

(c) No person shall serve as a member of a security hearing board hearing the case of an employee with whom he is acquainted.

(d) The Personnel Security Officer of the [department or agency] shall nominate [number of nominees] civilian officers or employees to the security hearing board roster maintained in Washington by the Civil Service Commission. The [heads of major units, as desired, outside of Washington] shall nominate [number of nominees] civilian officers or employees to the security hearing board roster maintained at the appropriate regional office of the Civil Service Commission.

(e) Officers and employees nominated to security hearing board rosters maintained by the Civil Service Commission, both in and outside of Washington, D.C., shall be persons of responsibility, unquestioned integrity, and sound judgment. Each such nominee shall have been the subject of a full field investigation, and his nomination shall be determined to be clearly consistent with the interests of the national security.

(f) The Personnel Security Officer or the [heads of major units, as desired, in the field] shall whenever appropriate, provide stenographic facilities to the security hearing boards of the [department or agency] when needed to provide an accurate stenographic transcript of the hearing.

(g) The Personnel Security Officer shall be responsible for the preparation of the charges against the employee to be presented to the security hearing board. Whenever possible the [head of department or agency] shall be represented at the hearing by a person designated by the [legal officer]. Such representative shall not act as prosecutor, but shall aid the board in its determination as to procedure, and shall advise the employee of his rights before the board upon request of the employee.

## SECTION 9. HEARING PROCEDURE

(a) Hearings before security hearing boards shall be conducted in an orderly manner, and in serious, business-like atmosphere of dignity and decorum, and shall be expedited as much as possible.

(b) Testimony before the hearing boards shall be given under oath or affirmation.

(c) The hearing board shall take whatever action is necessary to insure the employee of a full and fair consideration of his case. The employee shall be informed by the board of his right (1) to participate in the hearings, (2) to be represented by counsel of his choice, (3) to present witnesses and offer other evidence in his own behalf and in refutation of the charges brought against him, and (4) to cross-examine any witness offered in support of the charges.

(d) Hearings shall be opened by the reading of the letter setting forth the charges against the employee, and the statements and affidavits by the employee in answer to such charges.

(e) Both the [department or agency] and the employee may introduce such evidence as the hearing board may deem proper in the particular case. Rules of evidence shall not be binding on the board, but reasonable restrictions shall be imposed as to the relevancy, competency, and materiality of matters considered, so that the hearings shall not be unduly prolonged. If the employee is, or may be, handicapped by the non-disclosure to him of confidential information, or by lack of opportunity to cross-examine confidential informants, the hearing board shall take that fact into consideration. If a person who has made charges against the employee and who is not a confidential informant is called as a witness but does not appear, his failure to appear shall be considered by the board in evaluating such charges, as well as the fact that there can be no payment for travel of witnesses.

(f) The employee or his counsel shall have the right to control the sequence of witnesses called by him. Reasonable cross-examination of witnesses by the employee or his counsel shall be permitted.

(g) The hearing board shall give due consideration to documentary evidence developed by investigation, including party membership cards, petitions bearing the employee's signature, books, treatises or articles written by the employee, and testimony by the employee before duly constituted authorities. The fact that such evidence has been considered shall be made a part of the transcript of the hearing.

(h) Hearing boards may, in their discretion, invite any person to appear at the hearing and testify. However, a board shall not be bound by the testimony of such witnesses by reason of having called him, and shall have full right to cross-examine him.

(i) Hearing boards shall conduct the hearing proceedings in such manner as to protect from disclosure information affecting the national security or tending to disclose or compromise investigative sources or methods.

(j) Complete *verbatim* stenographic transcript shall be made of the hearing by qualified reporters, and the transcript shall constitute a permanent part of the record. Upon request, the employee or his

counsel shall be furnished, at reasonable cost, a copy of the transcript of the hearing.

(k) The board shall reach its conclusions and base its determination on the transcript of the hearing, together with such confidential information as it may have in its possession. The board, in making its determination, shall take into consideration the inability of the employee to meet charges of which he has not been advised, because of security reasons, specifically or in detail, or to attack the credibility of witnesses who do not appear. The decision of the board shall be in writing, and shall be signed by all members of the board. One copy of the decision of the board, together with the complete record of the case, including investigative reports, shall be sent to the [head of department or agency] and one copy shall be sent to the employee.

#### INVESTIGATION BY ATTORNEY GENERAL OF CERTAIN OFFENSES

Act of August 31, 1954 (68 Stat. 998; 28 U.S.C. 535)—*Investigation by Attorney General and Federal Bureau of Investigation:*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding any other provision of law, and without limiting the authority to investigate any matter which may have been or may hereafter be conferred upon them, or upon any other department or agency of the Government, the Attorney General and the Federal Bureau of Investigation shall have authority to investigate any violation of title 18, United States Code, involving Government officers and employees. Any information, allegation, or complaint received in any department or agency of the executive branch of the Government relating to said violations involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of such department or agency, unless the responsibility to perform an investigation with respect thereto is specifically otherwise assigned by another provision of law, or unless the Attorney General otherwise directs with respect, as to any department or agency of the Government, to any specified class of information, allegation or complaint: *Provided*, That the provisions of this section shall not limit, in any way, the existing authority of the military departments to investigate persons or offenses over which the Armed Forces have jurisdiction under the Uniform Code of Military Justice: *Provided further*, That the provisions of this section shall not limit, in any way, the primary authority of the Postmaster General to investigate postal offenses.

SEC. 2. Section 3056 of title 18, United States Code, is amended by striking out the following: "detect and arrest any person violating and laws of the United States directly concerning official matters administered by and under the direct control of the Treasury Department;"



## MILITARY PERSONNEL SECURITY PROGRAM

Department of Defense Directive Number 5210.9, dated June 19, 1956, as revised by Directive Transmittals dated August 3, 1964, July 12, 1965, and September 7, 1965—*Military Personnel Security Program*:

### I. PURPOSE

The purpose of this Directive is to establish uniform procedures and provide policy guidance pertaining to the acceptance, rejection or separation of persons whose membership in the Armed Forces would not be clearly consistent with the interests of national security in order to assure that the effectiveness of the Armed Forces of the United States will not be jeopardized by subversive elements within their ranks.

### II. SCOPE AND APPLICABILITY

A. This Directive prescribes the standard and criteria for:

1. the separation of military members from the Armed Forces or its reserve components in the interests of national security, and
2. the rejection of applicants for appointment or enlistment, or of persons who would otherwise be inducted or ordered into active military service, when the acceptance of such persons into the Armed Forces would not be clearly consistent with national security.

B. This Directive applies to all members and prospective members of the Armed Forces and their reserve components, including the Coast Guard when the Coast Guard is operating as a part of the Department of the Navy.

C. The provisions of this Directive will not be used to reject or separate a person from service with the Armed Forces where national security is not the primary consideration. Rejection or separation on grounds other than for security reasons will be made under other applicable directives. This Directive does not preclude trial by court-martial when such action is considered appropriate by competent authority.

### III. GENERAL POLICY

A. The underlying principle of this policy is to prevent damage to the Armed Forces by espionage, sabotage and subversion, and at the same time to protect the rights of the individual members of the Armed Forces.

B. The Department of Defense will assume that the acceptance or retention of any member of the Armed Forces is clearly consistent with the interest of national security unless and until a determination to the contrary is made by competent authority of the Military Department concerned. However, when credible information which raises the question of security is received, action will be taken to determine whether acceptance or retention is consistent with the interests of national security. In no



case will any person, reasonably believed to have at any time engaged in any of the activities listed in Section VIII C 2 below, be appointed, enlisted, or inducted into any of the Armed Forces without the approval of the Secretary of the Military Department concerned. Any member who is separated under the provisions of the appropriate Military Department regulation issued in implementation of this Directive, or whose records reflect that he was separated under other authority while undergoing investigation under the provisions of such regulation, will not be appointed or enlisted in any of the Armed Forces at a later date without the approval of the Secretary of the Military Department concerned.

#### IV. DEFINITION

*National Security.*—As used herein, the term “national security” relates to the protection and preservation of the military, economic, and productive strength of the United States, including the security of the government in domestic and foreign affairs, against or from espionage, sabotage, and subversion, and any and all acts designed to weaken or destroy the United States.

#### V. CANCELLATION

This Directive reissues with certain modifications the former Department of Defense Military Personnel Security Policy as set forth in reference (a). Reference (a) is therefore cancelled.

#### VI. REPORTING OF INFORMATION

It shall be the duty of every member of the Armed Forces to report to his commanding officer any information coming to his attention which indicates that retention of any member of the Armed Services may not be clearly consistent with the interests of national security.

#### VII. INVESTIGATIVE REQUIREMENTS

A. The investigative agencies of the Armed Forces, when conducting investigations pursuant to this program, will develop all relevant facts with special emphasis being given to that information which supports or refutes an allegation stemming from the criteria hereinafter described.

B. A National Agency Check shall be conducted prior to the appointing or commissioning of any individual as an officer or Warrant Officer.

C. The National Agency Checks for members of the Reserve Officer Training Corps shall be initiated upon appointment or enrollment in the Naval Reserve Officers Training Corps or upon enrollment in the advance courses of the senior division, Army and Air Force Reserve Officer Training Corps. The results of this National Agency Check should be available during the first term, quarter or semester following enrollment.

D. Upon being ordered to extended active duty, a National

Agency Check will be initiated at the officer's first duty station, if not already accomplished.

E. Effective October 1, 1965, enlistees and inductees will complete DD Form 398, "Statement of Personal History," at the time of enlistment or induction and prior to entry on active duty. Effective November 1, 1965, a National Agency Check will be initiated immediately for all enlistees upon reporting for duty at basic training. Effective July 1, 1966, a National Agency Check will be initiated immediately for all inductees upon reporting for duty at basic training.

#### VIII. STANDARD AND CRITERIA

A. *Standard*.—The standard for appointment, enlistment, induction, or retention into or within the Armed Forces shall be that on all the available information it is determined that the appointment, enlistment, induction or retention is clearly consistent with the interests of national security.

B. *Criteria for Application of Standard*.—An officer or Warrant Officer of the Armed Forces holds a sensitive position by virtue of his commission or warrant regardless of the duties and responsibilities of his assignment. Likewise, an enlisted member whose qualifications would normally require that he have access to classified information or material will be considered to hold a sensitive position regardless of the duties and responsibilities of his assignment. Nothing herein will serve to preclude temporary assignment to specially controlled duty as a security measure. However, indefinite assignment to such duty will be made only as prescribed by the Secretary of the Military Department concerned.

C. *Application of Criteria*.—1. The ultimate determination of whether acceptance or retention in the Armed Forces is clearly consistent with the interests of national security must be an overall common sense determination based on all available information. The Secretaries of the Military Departments shall issue uniform instructions for guidance in arriving at this common sense determination.

2. The activities and associations listed below, whether current or past and while not all inclusive, are of varying degrees of seriousness and warrant initiation of action to effect such termination:

a. Commission of any act of sabotage, espionage, treason or sedition, or attempts thereat or preparation therefor, or conspiring with or aiding or abetting another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

b. Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests are inimical to the interests

of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.

c. Advocacy of use of force or violence to overthrow the Government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

d. Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights, under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means. (An organization, movement, or group, officially designated by the Attorney General of the United States to be totalitarian, Fascist, Communist, or subversive, to advocate or approve forcible or violent denial of Constitutional rights, or to seek alteration of the form of government of the United States by unconstitutional means, shall be presumed to be of a character thus designated until the contrary be established).

e. Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

f. Intentional failure or refusal to sign the DD Form 98; refusal to completely answer questions contained in DD Forms 98 or 398; or otherwise failing or refusing to answer any pertinent question propounded in the course of an official investigation, interrogation, or examination, conducted for the purpose of ascertaining the existence or extent, or both, of conduct of the nature describe in *a* through *e* above, and *g* through *m* below.

g. Participation in the activities of an organization as a front for an organization referred to in *d* above, when his personal views were sympathetic to the subversive purposes of such organization.

h. Participating in the activities of an organization with knowledge that it had been infiltrated by members of subversive groups under circumstances indicating that the individual was a part of, or sympathetic to, the infiltrating element or sympathetic to its purpose.

i. Participation in the activities of an organization referred to in *d* above, in a capacity where he should reasonably have had knowledge of the subversive aims or purposes of the organization.

j. Sympathetic association with a member or members of an organization referred to in *d* above.

k. Currently maintaining a close continuing association with a person who has engaged in activities or associations of the type referred to in *a* through *i* above. A close continuing association may be considered to exist if the individual lives at the same address as, frequently visits, or frequently communicates with such person.

l. Close continuing association of the type described in *k* above, even though later separated by distance, if the circumstances indicate that renewal of the association is probable.

m. Any facts, other than as set forth in 3, below, which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of national security. Among matters which should be considered in this category would be the presence of a spouse, parent, brother, sister, or offspring in a nation, a satellite thereof, or an occupied area thereof, whose interests are inimical to the security of the United States.

n. Any excessive indebtedness, recurring financial difficulties, unexplained affluence or repetitive absences without leave which furnish reason to believe that the individual may act contrary to the best interests of national security.

3. *Separation Under Other Appropriate Directives or Regulations.*—Persons who fall within the criteria prescribed below are examples of members of the Armed Forces whose retention may not be clearly consistent with the interests of national security. However, action will not be initiated to separate a person from service with the Armed Forces under this security program unless the criteria set forth in Section VIII C 2 above are involved to the degree that national security is the primary consideration and action under other directives or regulations of the Military Departments or the Uniform Code of Military Justice has been determined to be inappropriate.

a. Willful violation or disregard of security regulations.

b. Intentional unauthorized disclosure to any person of classified information, or of other information, disclosure of which is prohibited by law.

c. Any deliberate misrepresentation, falsification, or omission of material fact.

d. Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

e. All other behavior, activities, or associations which tend to show that the member is not reliable or trustworthy.

#### IX. ADMINISTRATIVE POLICIES

The Secretary of each of the Military Departments will prescribe procedures to be taken within his department to implement this Directive. Procedures so established shall be governed by the following:

*A. Certification as to Non-Affiliation with Certain Organizations.*—The following persons will be required to accomplish a DD Form 98:

1. Each applicant for initial appointment or initial enlistment prior to his appointment or enlistment. Normally DD Form 98 will not be required for a subsequent appointment or enlistment provided the individual has had continuous service in one of the Armed Forces and has previously satisfactorily completed DD Form 98.
2. Each registrant prior to induction.
3. Each member of a Reserve component of the Armed Forces voluntarily or involuntarily entering upon a tour of extended active military duty immediately upon reporting to the initial activity to which his orders require him to report for such duty.
4. Reserve personnel not on extended active duty, as determined by the Secretary of the Military Department concerned.
5. Retired members of the Armed Forces when recalled to active military service.

*B. Application for Appointment.*—The completed DD Form 98 and DD Form 398 will be attached as an inclosure to the application for appointment. If an applicant fails or refuses to accomplish the DD Form 98 in its entirety, his appointment will be denied. If the DD Form 98 is completed and entries are made thereon which provide reason for belief that his appointment may not be clearly consistent with the interests of national security, such appointment shall be withheld pending a decision by the Military Department concerned.

*C. Application for Enlistment.*—If an applicant for enlistment fails or refuses to accomplish the DD Form 98 in its entirety, his enlistment will be denied. If the DD Form 98 is completed and entries are made thereon which provide reason for belief that his enlistment may not be clearly consistent with the interests of national security, such enlistment will be held in abeyance pending a decision by the Military Department concerned.

*D. Member of Reserve Components of the Armed Forces.*—If a member of a Reserve component of any Armed Service intentionally fails or refuses to accomplish the DD Form 98 in its entirety or makes entries thereon which provide reason for belief that his entry may not be clearly consistent with the interests of national security, action will be instituted with a view toward separation from the Service in accordance with procedures prescribed by the Secretary of the appropriate Military Department pursuant to this Directive.

*E. Retired Members of the Armed Forces.*—If any retired member of any Armed Service, voluntarily entering or being involuntarily called or ordered to active military service, fails or refuses to accomplish the DD Form 98 in its entirety or



makes entries thereon which provide reason for belief that his entry may not be clearly consistent with the interests of national security, action will be instituted with a view toward separation from the Service, if authorized by law, in accordance with procedures prescribed by the Secretary of the appropriate Military Department.

F. *Inductees*.—1. Known Communists will not be inducted into the Armed Forces. The Federal Bureau of Investigation and the Selective Service System shall be notified promptly of their rejection.

2. Whenever a person who is being processed for induction fails or refuses to accomplish satisfactorily the DD Form 98 in its entirety, or furnishes thereon significant derogatory information with respect to his background, further process of induction may be postponed pending completion of a thorough investigation. In the event this investigation reveals that his induction would not be clearly consistent with the interests of national security, he will not be accepted into the service. The initial determination concerning acceptance or rejection for induction shall be made by an Inter-Service Committee which will be established and supervised by the Secretary of the Army as the Executive Agent for Selective Service. The Inter-Service Committee shall be comprised of representatives of the Services participating in Selective Service procurement and shall be authorized to act for the Secretaries of their respective Departments. In the event the registrant is rejected, an opportunity to be heard will be granted, if the registrant so requests. The hearing will be before an appropriate board of officers (Hearing Board) convened under the instructions of the Secretary of the Army as Executive Agent. The Secretary of the Army as Executive Agent will, after the hearing cause an appropriate review of the case and his decision will be binding on the Military Departments. If the rejected registrant fails to request a hearing within a reasonable period, the initial determination of the Inter-Service Committee shall be final.

3. Doctor and dentist applicants for commissions who are subject to induction and:

a. Who fail or refuse to accomplish the DD Form 98 in its entirety will not be appointed and the determination as to their induction will be handled in accordance with the provisions of subparagraph 2, above.

b. Who complete the DD Form 98 with entries made thereon which provide reason for belief that the appointment would not be clearly consistent with the interests of national security, will not be appointed or inducted pending a decision by the Military Department concerned. The applicant will then be given the opportunity to be heard before an appropriate board of officers (Hearing Board). Before any such case is referred to a Hearing Board, however, it will be reviewed by an appropriate Screening Board ap-

pointed by the Secretary of the Service concerned. The Screening Board will operate in accordance with the procedures established by the Service Secretary concerned and will recommend to him, among other things, (a) whether the applicant should be tendered a commission, (b) whether the case should be referred to a Hearing Board, and (c) if a hearing is recommended, the information to be included in the statement of reasons. Hearing Boards will recommend that the applicant be (a) tendered a commission, (b) denied a commission but inducted in an enlisted capacity and used on non-sensitive assignments, or (c) rejected for service in any capacity on the basis that such service would not be clearly consistent with the interests of national security.

*G. Separation of Members.*—1. Cases susceptible to resolution under court-martial procedure shall normally be so processed.

2. Where, for any reason, court-martial proceedings are inappropriate, impracticable, or inadvisable, administrative proceedings with a view toward separation of members whose continued service may not be clearly consistent with the interests of national security shall be initiated in accordance with applicable statutory authority.

3. In any administrative proceeding to separate a member of the Armed Forces in the interest of national security, such member will be afforded an opportunity upon request to present evidence in his behalf as to why he should not be separated. Reasonable time will be afforded the member to present his case; however, a period in excess of 15 days may be granted only when the member can produce ample and sufficient justification for additional time.

4. Administrative procedures, as directed herein, shall not be trials or adjudications, but shall be directed to the end of obtaining factual findings and unbiased opinions by boards of officers that the members under investigation are, or are not, persons whose continued services are clearly consistent with the interests of national security. Whenever practicable the Headquarters of the Service concerned will make available to the Hearing Board an examiner without vote to assist the Board in assuring that the record of the proceedings is as complete as possible and that all pertinent information favorable as well as unfavorable to the individual is developed. The Hearing Board proceedings are subject to review as may be prescribed by the Secretary of the Military Department concerned.

5. When after review of the findings and opinions of boards of officers, the decision is that the continued service of a member of the Armed Forces is not clearly consistent with the interests of national security, he shall be separated and the character of the separation shall be predicated upon a careful consideration of all pertinent factors, including the gravity of substantiated derogatory information and the character of the service performed.

6. In the case of separation of any member of the Armed Services, under conditions outlined in the preceding subparagraph, the DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) will cite as authority the appropriate directive of the Military Department under which separation is affected.

7. If administrative proceedings, as defined in paragraph 4 above, result in a final determination by competent authority that an individual's retention is clearly consistent with the interests of national security, such determination shall be conclusive and binding, and may, in the absence of subsequently developed information substantially controverting that determination, support assignment of the member to normal duties.

8. The actions and procedures adopted by each of the Military Departments in implementation of this Directive shall emphasize and make specific provision for prompt and expeditious resolution of each case which may arise.

H. *Assignment Restrictions.*—During the period when a member of an Armed Service is under investigation for security reasons, and during the administrative processing of any case arising therefrom, the member will be placed under such restriction with respect to assignments and access to classified information as are required to protect the interests of national security.

I. *Control of Investigative Information.*—The reports and other investigative material and information developed by investigations conducted pursuant to directives in implementation of this program shall remain the property of the investigative agencies conducting the investigations, except that copies of reports of preinduction investigations shall be furnished to the Military Department to which the individual is allocated under the Selective Service Program. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto to other departments and agencies conducting security programs except in accordance with procedures prescribed by the Secretary of the Military Department concerned.

J. *Cooperation with Investigative Agencies.*—All Services will cooperate fully with Federal investigative agencies, and will avoid action tending prematurely to warn suspects that they are under suspicion or to compromise confidential sources of information. In cases presenting any substantial reason for belief that retention in the Armed Services may facilitate investigation and/or prosecution by Federal agencies, such retention may be effected notwithstanding any other provision of this Directive. Similarly administrative procedures with a view toward separation as directed herein may be withheld for a reasonable period pending completion of necessary investigation and advice by the investigative agency concerned that its missions will not be hampered by institution of such procedures.

## X. PROCESSING OF CASES

It is imperative that investigations and hearings under this program be completed on a priority basis so that determinations can be made with maximum expedition.

## XI. ACTION REQUIRED

Regulations of the Military Departments implementing this Directive will be coordinated with the Office of the Secretary of Defense to insure uniformity with respect to methods, procedures, and safeguards and forwarded so as to reach this office not later than 60 days from the effective date of this Directive.

## XII. EFFECTIVE DATE

This Directive is effective immediately.

### PROPOSED PROCEDURE FOR IMPROVEMENT OF FEDERAL EMPLOYEE SECURITY PROGRAM

DEPARTMENT OF JUSTICE,  
*Washington 25, D.C., March 4, 1955.*

Memorandum to: The Heads of All Departments and Agencies,  
Executive Branch.

From: The Attorney General.

Subject: Federal Employee Security Program.

I am transmitting herewith a copy of a letter which I addressed to the President on March 4, 1955, together with the President's reply of the same date, both of which are self-explanatory.

MARCH 4, 1955.

DEAR MR. PRESIDENT: You requested the Internal Security Division of the Department of Justice to review the Employee Security Program, and to recommend any needed improvements based upon a study of the actual operating practices thereunder.

The program operates under a 1950 statute (Public Law 733, 81st Congress, approved August 26, 1950, 64 Stat. 476), and a 1953 Executive Order (No. 10450, dated April 27, 1953, 18 F.R. 2489). Congress by enacting the 1950 statute in effect made the head of each participating department and agency of the Executive Branch responsible for suspending and terminating the employment of any civilian officer or employee of the Government whenever he shall determine that such action is necessary or advisable in the interest of the national security of the United States.

This imposes a grave responsibility upon each department and agency head. In our review we have kept in mind not only this responsibility but also your emphasis on a policy that the individual employee be accorded fair and impartial treatment at the hands of the Government.

The program requires, first, that the files of those employees who had been the subject of a full field investigation under prior loyalty programs be reexamined in accordance with the new security stand-

ards and appropriate action taken. That phase of the security program is well on the way to completion. The second phase of the program involves the investigation of all employees occupying sensitive positions and the taking of appropriate action based upon any derogatory information disclosed concerning them. This phase is likewise well along and can, with diligence, be brought to substantial completion shortly. After these two phases have been completed, the cases of applicants for jobs and probationary new employees will be the principal concern of the security program.

I believe that the program will continue to be improved by emphasizing the following procedures which experience has shown to be most helpful in protecting both the national security and the rights of the employees.

1. The statement of charges against the employee should be drawn as specifically as possible, consistent with the requirements of protecting the national security. In all instances, the General Counsel (or if there is no General Counsel, the top legal officer) of the agency or department should be consulted on the drafting of the statement of charges and his opinion secured to insure that the charges are specific enough to be meaningful to the employee. To expedite the disposition of these cases it is suggested that the statement of charges be given to the employee at the time of notice of suspension.

2. Meticulous care should be exercised in the matter of suspension of employees against whom derogatory information has been received. It is suggested that a personal interview with the employee prior to suspension is helpful in most instances. The General Counsel of the department or agency should be consulted and his opinion should be secured as to the sufficiency of the information justifying suspension. The final decision as to suspension should not be delegated below the Assistant Secretary level.

3. A legal officer should be present at security board hearings to act as an advisor to the board as to procedural matters and to the employee, if he is not represented by counsel, as to his rights under the Act of August 26, 1950, Executive Order No. 10450, as amended, and the pertinent regulations.

4. In order to assure the high caliber of security hearing boards, each agency head should periodically and personally review the list of persons made available by his agency for service on such boards. The Courts have recognized that Congress did not provide, or intend to provide, that hearing procedures under the security program be made identical with judicial processes. But it is our experience that by having persons possessing the highest degree of integrity, ability and good judgment as members of security boards the rights of the Government and of the employee are fully safeguarded.

5. Whenever an agency head proposes to make an adverse security evaluation with respect to a person who has been cleared previously in another agency he should consult promptly with the head of the other agency to make certain that all relevant information has been given consideration and that the security standards have been properly applied. The objective should be to avoid conflicting evaluations which are not based upon a difference in the sensitivity of the jobs.



The Justice Department would be willing to assist in any such consultations. The results should be recorded in each of the agencies concerned.

6. Even though the statute does not provide subpoena power for witnesses, every effort should be made to produce witnesses at Security Board hearings to testify in behalf of the Government so that such witnesses may be confronted and cross-examined by the employee, so long as the production of such witnesses would not jeopardize the national security.

7. All violations of law as disclosed in the investigations or proceedings under the program should be reported immediately to the Division of Internal Security, Department of Justice.

In this connection I should like to inform you that conferences of the security officers of the larger departments and agencies are being held at the Justice Department regularly. At such conferences extensive discussions are held with respect to various phases of the security program and difficult problems arising in any department or agency are considered. This is serving to improve the operation of the program in many respects. It is now proposed to extend these conferences to the security officers of all agencies. In cooperation with the Civil Service Commission these conferences will be utilized to bring about better coordination of all agencies and departments in carrying out more efficiently the purposes of Executive Order 10450.

Respectfully,

(S) HERBERT BROWNELL, JR.,  
*Attorney General.*

The PRESIDENT,  
*The White House.*

THE WHITE HOUSE,  
*Washington, March 4, 1955.*

To: The Attorney General.

I approve the contents of your letter of March fourth on the Employee Security Program.

Will you please take steps to see that a copy of that letter, with this endorsement, is furnished to the head of each governmental Department, independent Agency, and other interested individuals of the Executive Branch?

DWIGHT D. EISENHOWER.

#### COMMISSION ON GOVERNMENT SECURITY

Act of August 9, 1955 (69 Stat. 595), as amended by Act of July 25, 1956 (70 Stat. 634: P.L. 780, 84th Cong.)—*Establishment of Commission on Government Security:*

SEC. 6. The Commission shall study and investigate the entire Government security program, including the various statutes, Presidential orders, and administrative regulations and directives under which the Government seeks to protect the national security, national defense secrets, and public and private defense installations, against loss or injury arising from espionage, disloyalty, subversive activity, sabotage, or unauthorized disclosures,

together with the actual manner in which such statutes, Presidential orders, administrative regulations, and directives have been and are being administered and implemented, with a view to determining whether existing requirements, practices, and procedures are in accordance with the policies set forth in the first section of this joint resolution, and to recommending such changes as it may determine are necessary or desirable. The Commission shall also consider and submit reports and recommendations on the adequacy or deficiencies of existing statutes, Presidential orders, administrative regulations, and directives, and the administration of such statutes, orders, regulations, and directives, from the standpoints of internal consistency of the overall security program and effective protection and maintenance of the national security.

#### REPORT

The Commission submitted its report to the Congress (Senate Doc. No. 64, 85th Cong.) on June 21, 1957 and ceased to exist 90 days thereafter.

#### STRIKE OR OVERTHROW OF GOVERNMENT

Act of August 9, 1955 (69 Stat. 624, 5 U.S.C. 7311; 18 U.S.C. 1918)—*Superseding § 9A of the Hatch Act:*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That no person shall accept or hold office or employment in the Government of the United States or any agency thereof, including wholly owned Government corporations, who—

(1) advocates the overthrow of our constitutional form of government in the United States;

(2) is a member of an organization that advocates the overthrow of our constitutional form of government in the United States, knowing that such organization so advocates;

(3) participates in any strike or asserts the right to strike against the Government of the United States or such agency; or

(4) is a member of an organization of Government employees that asserts the right to strike against the Government of the United States or such agencies, knowing that such organization asserts such right.

\* \* \* \* \*

SEC. 3. Any person who violates section 1 of this Act shall be guilty of a felony, and shall be fined not more than \$1,000 or imprisoned not more than one year and a day, or both.

Act of September 6, 1966 (80 Stat. 424, 5 U.S.C. 3333)—*Employee affidavit; loyalty and striking against the government:*

(a) Except as provided by subsection (b) of this section, an individual who accepts office or employment in the Government of the United States or in the government of the District of Columbia shall execute an affidavit within 60 days after accept-

ing the office or employment that his acceptance and holding of the office or employment does not or will not violate section 7311 of this title. The affidavit is prima facie evidence that the acceptance and holding of office or employment by the affiant does not or will not violate section 7311 of this title.

(b) An affidavit is not required from an individual employed by the Government of the United States or the government of the District of Columbia for less than 60 days for sudden emergency work involving the loss of human life or the destruction of property. This subsection does not relieve an individual from liability for violation of section 7311 of this title.

### NATIONAL DEFENSE EXECUTIVE RESERVE

Executive Order 11179 dated September 22, 1964 (29 F.R. 13239)—  
*Providing for the Establishment of a National Defense Executive Reserve:*

By virtue of the authority vested in me by the Constitution and statutes of the United States, including Sections 703(a) and 710(e) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2153(a) ; 2160(e) ), and as President of the United States, it is hereby ordered as follows:

SECTION 1. There shall be in the Executive Branch of the Government a National Defense Executive Reserve composed of persons selected from various segments of the civilian economy and from government for training for employment in executive positions in the Federal Government in the event of the occurrence of an emergency that requires such employment.

SEC. 2. The Director of the Office of Emergency Planning (hereinafter referred to as the Director) shall administer the Executive Reserve program; coordinate the activities of other agencies in establishing units of the Reserve; provide for appropriate standards of recruitment and training; approve prospective members of the Executive Reserve; and issue necessary rules and regulations in connection with the program.

SEC. 3. The Director, in carrying out his responsibilities under this order, may utilize the services of other departments and agencies in the maintenance of agency and centralized rosters and in the development of training programs and materials.

SEC. 4. (a) The head of any department or agency of the Government (hereinafter referred to as a Secretary), designated by the Director after appropriate consultation, may establish a unit of the Executive Reserve (hereinafter referred to as Executive Reserve Units) in his respective department or agency.

(b) Executive Reserve Units existing under Executive Order No. 10660 of February 15, 1956, as amended, on the date of this order shall henceforth be deemed to be Executive Reserve Units under this order.

SEC. 5. Membership in Executive Reserve Units shall be subject to the following:

(1) Subject to the provisions of this order, particularly

paragraph (4) of this section, an individual who on the date of this order was a member of an Executive Reserve Unit under Executive Order No. 10660 may continue to serve therein without further designation.

(2) A Secretary desiring to designate an individual to serve as a member of an Executive Reserve Unit of his department or agency shall submit the name of the prospective designee to the Director for approval. Upon approval of the prospective designee by the Director, the Secretary concerned may designate the individual as a member of the Executive Reserve Unit of his department or agency.

(3) An individual whose membership in an Executive Reserve Unit has at any time expired, or is at any time about to expire, under the terms of this order may be redesignated as a member under the procedure set forth in paragraph (2) of this section.

(4) Without limiting the authority of the respective Secretaries to terminate the membership of any individual in an Executive Reserve Unit at any time, it is directed that continued service of a member under paragraph (1) of this section, and the designation or redesignation of a member under paragraph (2) or (3) of this section, respectively (including any designation of an individual occurring at the expiration of his continued service under paragraph (1)), shall be for a period not to exceed three years.

SEC. 6. Activities of any person by reason of his continuance, designation, or redesignation as an Executive Reservist under this order shall not include acting or advising on any matter pending before any department or agency but shall be limited to receiving training for mobilization assignments under the Reserve program.

SEC. 7. The Director shall report to the President annually, and at such other times as may be appropriate, on the status and operation of the Executive Reserve program.

SEC. 8. Executive Order No. 10660 of February 15, 1956, entitled "Providing for the Establishment of a National Defense Executive Reserve," as amended, is hereby superseded.

## STRIKES OR OVERTHROW OF GOVERNMENT DISTRICT OF COLUMBIA

Act of June 29, 1956 (70 Stat. 453, § 3)

SEC. 3. From and after July 1, 1956, the provisions of Public Law 330, Eighty-fourth Congress, approved August 9, 1955, shall be applicable to the government of the District of Columbia.

## CODE OF ETHICS FOR GOVERNMENT SERVICE

H. Con. Res. 175, 85th Congress, passed by the Senate on July 11, 1958:

### CONCURRENT RESOLUTION

*Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following*

Code of Ethics should be adhered to by all Government employees, including officeholders:

#### CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust.

#### PERSONNEL SECURITY PROCEDURES IN NATIONAL SECURITY AGENCY

Act of March 26, 1964 (78 Stat. 169) as last amended by Act of October 27, 1972 (86 Stat. 1318); 50 U.S.C. 831-835:

§ 831. *Regulations for employment security.*—Subject to the provisions of this subchapter, the Secretary of Defense (hereafter in this subchapter referred to as the "Secretary") shall prescribe such regulations relating to continuing security procedures as he considers necessary to assure—

(1) that no person shall be employed in, or detailed or assigned to, the National Security Agency (hereafter in this subchapter referred to as the "Agency"), or continue to be so employed, detailed, or assigned; and

(2) that no person so employed, detailed, or assigned shall have access to any classified information;

unless such employment, detail, assignment, or access to classified information is clearly consistent with the national security. Sept. 23, 1950, c. 1024, Title III, § 301, as added Mar. 26, 1964, Pub.L. 88-290, 78 Stat. 168.



§ 832. *Full field investigation and appraisal—Conditional employment; other current security clearance; circumstances authorizing employment on temporary basis.*—(a) No person shall be employed in, or detailed or assigned to, the Agency unless he has been the subject of a full field investigation in connection with such employment, detail, or assignment, and is cleared for access to classified information in accordance with the provisions of this subchapter: excepting that conditional employment without access to sensitive cryptologic information or material may be tendered any applicant, under such regulations as the Secretary may prescribe, pending the completion of such full field investigation: *And provided further*, That such full field investigation at the discretion of the Secretary need not be required in the case of persons assigned or detailed to the Agency who have a current security clearance for access to sensitive cryptologic information under equivalent standards of investigation and clearance. During any period of war declared by the Congress, or during any period when the Secretary determines that a national disaster exists, or in exceptional cases in which the Secretary (or his designee for such purpose) makes a determination in writing that his action is necessary or advisable in the national interest, he may authorize the employment of any person in, or the detail or assignment of any person to, the Agency, and may grant to any such person access to classified information, on a temporary basis, pending the completion of the full field investigation and the clearance for access to classified information required by this subsection, if the Secretary determines that such action is clearly consistent with the national security.

BOARDS OF APPRAISAL; ESTABLISHMENT; MEMBERSHIP; APPOINTMENT; APPRAISAL IN DOUBTFUL CASES; REPORT AND RECOMMENDATION; QUALIFICATIONS OF MEMBERS; SECRETARY'S CLEARANCE CONTRARY TO BOARD'S RECOMMENDATION

(b) To assist the Secretary and the Director of the Agency in carrying out their personnel security responsibilities, one or more boards of appraisal of three members each, to be appointed by the Director of the Agency, shall be established in the Agency. Such a board shall appraise the loyalty and suitability of persons for access to classified information, in those cases in which the Director of the Agency determines that there is a doubt whether their access to that information would be clearly consistent with the national security, and shall submit a report and recommendation on each such case. However, appraisal by such a board is not required before action may be taken under section 863 of Title 5, section 22—1 of Title 5, or any other similar provision of law. Each member of such a board shall be specially qualified and trained for his duties as such a member, shall have been the subject of a full field investigation in connection with his appointment as such a member, and shall have been cleared by the

Director for access to classified information at the time of his appointment as such a member. No person shall be cleared for access to classified information, contrary to the recommendations of any such board, unless the Secretary (or his designee for such purpose) shall make a determination in writing that such employment, detail, assignment, or access to classified information is in the national interest.

§ 833. *Termination of employment—Generally; finality.*—(a) Notwithstanding section 863 of Title 5, section 22—1 of Title 5, or any other provision of law, the Secretary may terminate the employment of any officer or employee of the Agency whenever he considers that action to be in the interest of the United States, and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of that officer or employee cannot be invoked consistently with the national security. Such a determination is final.

#### EMPLOYMENT IN OTHER DEPARTMENTS OR AGENCIES

(b) Termination of employment under this section shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the United States Civil Service Commission.

#### DELEGATION OF AUTHORITY; LIMITATION

(c) Notwithstanding section 133(d) of Title 10, only the Deputy Secretaries of Defense and the Director of the National Security Agency may be delegated any authority vested in the Secretary of Defense by subsection (a).

§ 834. *Definition of "classified information."*—For the purposes of this section, the term "classified information" means information which, for reasons of national security, is specifically designated by a United States Government agency for limited or restricted dissemination or distribution.

§ 835. *Nonapplicability of Administrative Procedure Act.*—The Administrative Procedure Act, as amended, shall not apply to the use or exercise of any authority granted by this subchapter.

### SECTION B. THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS—LOYALTY OF UNITED STATES CITIZENS <sup>75</sup>

Executive Order 10422, dated January 9, 1953 (19 F.R. 239), as amended by E.O. 10459 and E.O. 10763 (18 F.R. 3183, 23 F.R. 2767) prescribes procedures for making available to the Secretary General of the United Nations, certain information concerning United States

<sup>75</sup> See Part I, page 125, of this Manual, Act of August 4, 1947 (61 Stat. 756, ch. 482), for Permanent Headquarters Agreement; see Senate Report 559, 80th Congress referred to therein, for Privileges and Immunities Convention; see also Parts IV and V of this Manual for hearings and reports in the 82d and 83d Congresses on the subject of loyalty of United States citizens employed by United Nations Secretariat.

citizens employed or being considered for employment on the Secretariat of the United Nations. This order was issued following the recommendation of the Commission of Jurists that the Secretary General of the United Nations regarded it as of the first importance to refrain from employing or to dismiss from employment on the Secretariat of the United Nations any United States citizen who he has reasonable grounds for believing has been, is, or is likely to be, engaged in espionage or subversive activities against the United States, and that the United States make available to the Secretary General information on which he can make his determination as to whether reasonable grounds exist for believing that a United States citizen employed or being considered for employment on the Secretariat has been, is, or is likely to be, engaged in espionage or subversive activities against the United States.

#### I. INVESTIGATION

1. Upon receipt by the Secretary of State from the Secretary General of the United Nations of the name of each United States citizen employed or being considered for employment, there shall be an investigation under the order.

2. The Secretary of State shall forward the information received from the Secretary General of the United Nations to the United States Civil Service Commission, and the Commission shall conduct an investigation.

3. The investigation conducted by the Civil Service Commission shall be a full background investigation conforming to the investigative standards of the Civil Service Commission, and shall include reference to the following:

- (a) Federal Bureau of Investigation files.
- (b) Civil Service Commission files.
- (c) Military and naval intelligence files as appropriate.
- (d) The files of any other appropriate Government investigative or intelligence agency.
- (e) The files of appropriate committees of the Congress.
- (f) Local law-enforcement files at the place of residence and employment of the person, including municipal, county, and State law-enforcement files.
- (g) Schools and colleges attended by the person.
- (h) Former employers of the person.
- (i) References given by the person.
- (j) Any other appropriate source.

However, in the case of short-term employees whose employment does not exceed ninety days, such investigation need not include reference to subparagraphs (f) through (j) of this paragraph.

4. Whenever information disclosed with respect to any person being investigated is derogatory, within the standard set forth in Part II of this order, the United States Civil Service Commission shall forward such information to the Federal Bureau of Investigation, and the Bureau shall conduct a full field investigation of such person.

4A. In all cases involving a United States citizen employed or being

considered for employment on the internationally recruited staff of the United Nations for a period exceeding 90 days, the investigation required by this Part shall be a full field investigation conducted by the Federal Bureau of Investigation.

5. Reports of full field investigations shall be forwarded through the Civil Service Commission to the International Organizations Employees Loyalty Board established by Part IV of this order. Whenever such a report contains derogatory information, under the standard set forth in Part II of this order, there shall be made available to the person in question the procedures of the Board provided by Part IV of this order (including the opportunity of a hearing) for inquiring into the loyalty of the person as a United States citizen in accordance with the standard set forth in Part II of this order. The Board shall transmit its determinations, as advisory opinions, together with the reasons for same in as much detail as the Board determines that security considerations permit, to the Secretary of State for transmission to the Secretary General of the United Nations for his use.

6. At any stage during the investigation or Board proceeding, the Board may transmit to the Secretary of State, for forwarding to the Secretary General, disclosed derogatory information in as much detail as the Board determines that security considerations permit.

This shall be for the purpose of assisting the Secretary General in determining whether or not he should take action with respect to the employment of a person being considered for employment prior to the completion of the procedures outlined in this order. The making available of any such information shall be without prejudice to the right of full hearing as provided for herein.

7. The Secretary of State shall notify the Secretary General in all cases in which no derogatory information has been developed.

## II. STANDARD

1. The standard to be used by the International Organizations Employees Loyalty Board in making an advisory determination shall be whether or not, on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States.

2. Activities and associations of a person which may be considered in connection with the determination of his loyalty may include (a) sabotage, espionage, or attempts thereof, or knowingly associating with spies or saboteurs, (b) treason or sedition or advocacy thereof, (c) advocacy of revolution, force, or violence to alter the constitutional form of government of the United States, (d) intentional, unauthorized disclosure of confidential information obtained in course of Federal employment or otherwise, (e) acting to serve the interests of another government in preference to the interests of the United States, while in Federal employment, (f) membership in or affiliation with subversive groups.

## III. OTHER INTERNATIONAL ORGANIZATIONS

The provisions of parts 1 and 2 of this Executive order are also applicable to United States citizens who are employees of, or are



being considered for employment by, other public international organizations of which the United States Government is a member, by arrangement between the executive head of the international organization concerned and the Secretary of State or other officer of the United States designated by the President.

#### IV. INTERNATIONAL ORGANIZATIONS EMPLOYEES LOYALTY BOARD

1. There is established in the Civil Service Commission an International Organizations Employees Loyalty Board consisting of not less than three members, who shall be officers or employees of the Commission.

2. The Board is authorized, in cases referred to it under this order, to inquire into the loyalty to the Government of the United States of United States citizens employed, or considered for employment, by international organizations of which the United States is a member, and to make advisory determinations under the standard set forth in Part II of this order, for transmission by the Secretary of State to the executive heads of the international organizations.

3. The Board shall make necessary rules and regulations for the execution of its functions. Such rules and regulations shall include provisions for furnishing each person whose case is considered by the Board (a) a written statement of the alleged derogatory information, in as much detail as the Board determines that security considerations permit, (b) an opportunity to answer in writing and to submit affidavits, (c) an opportunity for a hearing before the Board, including the right to be represented by counsel, to present witnesses and to cross-examine witnesses. The Board shall conduct its hearings in such manner as will not disclose information affecting the national security.

4. The Board shall base its determination on all the evidence before it including such confidential information as it may have in its possession. The Board shall send a copy of its determinations to each person who is the subject thereof.

5. The Civil Service Commission shall provide the necessary investigative and other services required by the Board, and all other Executive agencies are directed to cooperate with the Board.

6. All cases arising under Executive Order 10422 which are pending before the Regional Loyalty Boards and the Loyalty Review Board of the Commission on May 27, 1953, shall be transferred to the Board.

Regulations relating to *Operations of the International Organizations Employees Loyalty Board*: Issued October 7, 1953 by authority of Executive Order 10422 (*supra*), 5 C.F.R. 1501.1-1501.16:

§ 1501.1 *Name*. This Board shall be known as the International Organizations Employees Loyalty Board, and any reference to the "Board" in this part shall mean such International Organizations Employees Loyalty Board.

§ 1501.2 *Officers*. The officers of the Board shall consist of a chairman, a vice-chairman to be designated by the chairman, and an executive secretary to be appointed by the Board.



§ 1501.3 *Duties of officers.* (a) *The Chairman.* The chairman shall perform all the duties usually pertaining to the office of chairman, including presiding at Board meetings, supervising the administrative work of the Board, and conducting its correspondence. He shall be authorized to call special meetings of the Board, when in his judgment, such meetings are necessary and shall call such meetings at the written request of three members of the Board. The time and place of such meetings shall be fixed by the chairman. The chairman shall constitute such panels of the Board as may be necessary or desirable to render advisory determinations and to conduct hearings, and he is authorized to appoint such committees as from time to time may be required to handle the work of the Board. The chairman may request the vice-chairman to assume the duties of the chairman in the event of the absence of the chairman or his inability to act.

(b) *The Vice-Chairman.* The duties of the vice-chairman, when acting in the place of the chairman, shall be the same as the duties of the chairman.

(c) *The Executive Secretary.* The executive-secretary shall perform all of the duties customarily performed by an executive-secretary. He shall have immediate charge of the administrative duties of the Board under the direction of the chairman and shall have general responsibility for advising and assisting the Board members and exercising executive direction over the staff.

§ 1501.4 *Hearings.* No adverse determination shall be made without the opportunity for a hearing.

§ 1501.5 *Panels of the Board.* All hearings shall be held by panels of the Board, the determinations of which shall be the determinations of the Board. Such panels of the Board shall consist of not less than three members designated by the chairman. The chairman shall designate the Board member who shall be the presiding member and it shall be the duty of such presiding member to make due report to the Board of all acts and proceedings of the said panel.

§ 1501.6 *Quorum.* A majority of all the members of the Board shall constitute a quorum of the Board. Minutes shall be kept of the transactions of the Board in its meetings.

§ 1501.7 *Authority and responsibility of the Board.* The Board shall have the authority and responsibility to make rules and regulations, not inconsistent with the provisions of Executive Order 10422, as amended, for the execution of its functions and for making available to the Secretary General of the United Nations and the executive heads of other public international organizations certain information concerning United States citizens employed or being considered for employment by the United Nations or other public international organizations of which the United States is a member.

§ 1501.8 *Grounds for determinations of the Board.* (a) *Standard.* The standard to be used by the Board in making an advisory determination relating to the loyalty of a United States

citizen who is an employee of, or is being considered for employment in, a public international organization of which the United States is a member, shall be whether or not on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States.

(b) *Activities and associations.* Among the activities and association of the employee or person being considered for employment which may be considered in connection with a determination of disloyalty may be one or more of the following:

(1) Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs.

(2) Treason or sedition or advocacy thereof.

(3) Advocacy of revolution or force or violence to alter the constitutional form of government of the United States.

(4) Intentional, unauthorized disclosure to any person, under circumstances which may indicate disloyalty to the United States, of United States documents or United States information of a confidential or non-public character obtained by the person making the disclosure as a result of his previous employment by the Government of the United States or otherwise.

(5) Performing or attempting to perform his duties, or otherwise acting, while an employee of the United States Government during a previous period, so as to serve the interests of another government in preference to the interests of the United States.

(6) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, or group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

§ 1501.9 *Cases reviewable by the Board.* All cases in which an investigation has been made under Executive Order 10422, as amended, shall be referred to and reviewed by the Board in accordance with the Executive Order and the rules and regulations of the Board.

§ 1501.10 *Consideration of reports of investigation.* (a) In all cases the Board shall consider the reports of investigation in the light of the standard as set forth in § 1501.8 and shall determine whether such reports warrant a finding favorable to the individual or appear to call for further processing of the case with a view to a possible unfavorable determination.

(b) If the Board reaches a favorable conclusion in a case involving a question of loyalty, it shall make a determination that on all the evidence there is not a reasonable doubt as to the individual's loyalty.

(c) If the Board determines that the reports do not warrant a finding favorable to the individual, or the Board determines that the evidence is of such a nature that a hearing may be required

before a final decision is made, the Board shall send by registered mail, or in such other manner as the Board in a particular case may decide, a written interrogatory to the individual. Such interrogatory shall state the nature of the evidence against him, setting forth with particularity the facts and circumstances involved, in as much detail as security conditions permit, in order to enable him to submit his answer, defense or explanation and to submit affidavits. It will also inform the applicant or employee, of his opportunity to reply to the interrogatory in writing, under oath or affirmation, within ten (10) calendar days of the date of receipt by him of the interrogatory or such longer time as the Board in specific cases may prescribe, and of his opportunity for a hearing on the issues before the Board or a panel of the Board, including his right to appear personally at such hearing, to be, represented by counsel or a representative of his own choosing, to present evidence in his own behalf, and to cross-examine witnesses offered in support of the derogatory information.

§ 1501.11 *Consideration of complete file before hearing.* (a) Following delivery to the applicant or employee of the interrogatory and after expiration of the time limit for filing an answer to the interrogatory, the Board shall proceed to consider the case on the complete file, including the answer, if any, to the interrogatory.

(b) If, upon such consideration, the Board concludes that a finding favorable to the individual may be made, no hearing shall be required.

(c) If, upon such consideration, the Board concludes that a determination favorable to the individual cannot be made on the basis of the information in the file, it shall set a time and place for a hearing and shall give notice thereof to the individual.

§ 1501.12 *Obtaining further information.* At any stage in its review and consideration of a case, if the Board deems it advisable or necessary to obtain information or clarification of any matter, the Board may request further investigation, or submit a written questionnaire to the individual whose case is before the Board, or request such individual to furnish information in an oral interview.

§ 1501.13 *Conduct of hearings.* (a) Not less than three members of a panel of the Board shall be present at all hearings. The Board shall conduct its hearings in such manner as to protect from disclosure information affecting the national security. The chairman of the panel shall preside and be responsible for the maintenance of decorum and order in the hearing.

(b) Attendance at hearings shall be limited to the applicant or employee, his attorney or representative, the panel of the Board assigned to the case, Board members, Board staff employees participating in the case, the witness who is testifying, and such other persons as in the opinion of the panel are required for the proper presentation of the case. Representation for an applicant or employee shall be limited to one attorney or representative and one bona fide assistant, both representing the applicant or employee only.

(c) Hearings shall begin with the reading of the interrogatory. The applicant or employee shall thereupon be informed of his right to participate in the hearing, to be represented by counsel, to present witnesses and other evidence in his behalf, and to cross-examine witnesses offered in support of the derogatory information.

(d) Testimony shall be given under oath or affirmation.

(e) Strict legal rules of evidence shall not be applied at the hearings, but reasonable bounds shall be maintained as to competency, relevancy, and materiality and due allowance shall be made for the effect of any nondisclosure to the individual of information or the absence of any opportunity to cross-examine persons who supplied information but who do not appear and testify. Both the Government and the applicant or employee may introduce such evidence as the panel may deem proper in the particular case.

(f) A complete verbatim stenographic transcript shall be made of the hearing, and the transcript shall constitute a permanent part of the record.

(g) Applicants and employees must pay their own travel and subsistence expenses incident to attendance at hearings, except that the Board may authorize the payment of travel and subsistence expenses to applicants or employees when the hearing is held at a place other than the place outside the continental limits of the United States where the employee works, or the applicant resides, and such payment is considered in the interest of good administration and funds are available for this purpose. [18 F.R. 6371, Oct. 7, 1953, as amended at 21 F.R. 5249, July 14, 1958]

§ 1501.14 *Decision of the Board.* After the employee or person being considered for employment has been given a hearing, the Board shall promptly make its decision. The determination of the Board shall be in writing and shall be signed by the members of the panel. It shall state the action taken, together with the reasons therefor, and shall be made a permanent part of the file in every case.

§ 1501.15 *Transmission of Determination to the Secretary of State.* The Board shall transmit its determination in each case to the Secretary of State for transmission to the Secretary General of the United Nations, or the executive head of any other public international organization concerned. In each case in which the Board determines that, on all the evidence, there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States, it shall also transmit a statement of the reasons for the Board's determination in as much detail as the Board deems that security considerations permit.

§ 1501.16 *Notification of individual concerned.* A copy of the determination of the Board, but not of the statement of reasons, shall be furnished in each case to the person who is the subject thereof.

## *Part IV*

### INVESTIGATING COMMITTEES

(INCLUDING REPORTS ISSUED BY COMMITTEES)

#### SECTION A. HOUSE OF REPRESENTATIVES

##### *Seventy-first Congress*

House Resolution 220—"The Fish Committee"—*Communist Propaganda in the United States*:

*Resolved*, That the Speaker of the House of Representatives is authorized and directed to appoint a committee of five Members of the House of Representatives to investigate communist propaganda in the United States and particularly in our educational institutions; the activities and membership of the Communist Party of the United States; and all affiliated organizations and groups thereof; the ramification of the Communist International in the United States; the Amtorg Trading Corporation; the Daily Worker, and all entities, groups, or individuals who are alleged to advise, teach, or advocate the overthrow by force or violence of the Government of the United States, or attempt to undermine our republican form of government by inciting riots, sabotage, or revolutionary disorders.

The committee shall report to the House the results of its investigation, including such recommendations for legislation as it deems advisable.

For such purposes the committee or any subcommittee thereof, is authorized to sit and act at such times and places in the District of Columbia or elsewhere, whether or not the House is in session, to hold such hearings, to employ such experts, and such clerical, stenographic, and other assistants, to require the attendance of such witnesses and the production of such books, papers, and documents, to take such testimony, to have such printing and binding done, and to make such expenditures as it deems necessary.

The resolution was agreed to on May 22, 1930 (72 Congressional Record 9397).

*Report*—The committee submitted a report on January 17, 1931 (H. Rept. No. 2290, 71st Cong., 3d sess.).

##### *Seventy-third Congress*

House Resolution 198—"The McCormack-Dickstein Committee"—*Nazi Propaganda*:

*Resolved*, That the Speaker of the House of Representatives be, and he is hereby, authorized to appoint a special committee



to be composed of seven members for the purpose of conducting an investigation of (1) the extent, character, and objects of Nazi propaganda activities in the United States, (2) the diffusion within the United States of subversive propaganda that is instigated from foreign countries and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

That said special committee, or any subcommittee thereof, is hereby authorized to sit and act during the present Congress at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, by subpoena or otherwise and to take such testimony as it deems necessary. Subpenas shall be issued under the signature of the chairman and shall be served by any person designated by him. The chairman of the committee or any member thereof may administer oaths to witnesses. Every person who, having been summoned as a witness by authority of said committee or any subcommittee thereof, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties provided by section 102 of the Revised Statutes of the United States.

The resolution was agreed to on March 20, 1934 (78 Congressional Record 4949).

*Report*—The Committee submitted its report on February 15, 1935 (H. Rept. No. 153, 73d Cong.).

### *Seventy-fifth Congress*

House Resolution 282—"The Dies Committee"—*Investigation of Un-American Activities*:

*Resolved*, That the Speaker of the House of Representatives be, and he is hereby, authorized to appoint a special committee to be composed of seven members for the purpose of conducting an investigation of (1) the extent, character, and objects of Un-American propaganda activities in the United States, (2) the diffusion within the United States of subversive and Un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

That said special committee, or any subcommittee thereof, is hereby authorized to sit and act during the present Congress at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, by subpoena or otherwise and to take such testimony as it deems necessary. Subpenas shall be issued under the signature of the chairman and

shall be served by any person designated by him. The Chairman of the committee or any member thereof may administer oaths to witnesses. Every person who, having been summoned as a witness by authority of said committee, or any subcommittee thereof, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties provided by section 102 of the Revised Statutes of the United States (U.S.C. title 2, sec. 192).

SEC. 2. The committee shall file its report with the House on January 3, 1939, or may file the same earlier in the event the House is not in session, with the Speaker of the House, for printing as a public document.

The resolution was agreed to on May 26, 1938 (83 Congressional Record 7586).

*Report*—The committee submitted its report on January 3, 1939 (H. Rept. No. 2, 76th Cong.).

### *Seventy-sixth Congress*

House Resolution 26—"The Dies Committee"—*Continuation*:

*Resolved*, That the Special Committee to Investigate Un-American Propaganda and Activities is authorized to continue the investigation begun under authority of House Resolution 282 of the Seventy-fifth Congress, and for such purposes said committee shall have the same power and authority as that conferred upon it by said House Resolution 282 of the Seventy-fifth Congress and shall report to the House as soon as practicable, but not later than January 3, 1940, the results of its investigations, together with its recommendations for necessary legislation.

The resolution was agreed to on February 3, 1939 (84 Congressional Record 1128).

*Report*—The committee submitted its report on January 3, 1940 (H. Rept. No. 1476, 76th Cong.).

House Resolution 321—"The Dies Committee"—*Continuation*:

*Resolved*, That the Special Committee to Investigate Un-American Activities is authorized to continue the investigation begun under authority of House Resolution 282 of the Seventy-fifth Congress, and continued under House Resolution 26 of the Seventy-sixth Congress, and for such purposes said committee shall have the same power and authority as that conferred upon it by said House Resolution 282 of the Seventy-fifth Congress and shall report to the House as soon as practicable, but not later than January 3, 1941, the results of its investigations, together with its recommendations for necessary legislation.

The resolution was agreed to on January 23, 1940 (86 Congressional Record 605).

*Report*—The committee submitted its report on January 3, 1941 (H. Rept. No. 1, 77th Cong.).

### *Seventy-seventh Congress*

House Resolution 90—"The Dies Committee"—*Continuation*:

*Resolved*, That the Special Committee to Investigate Un-American Activities is authorized to continue the investigation

begun under authority of House Resolution 282 of the Seventy-fifth Congress, and continued under House Resolution 26 of the Seventy-sixth Congress, and continued under House Resolution 321 of the Seventy-sixth Congress, and for such purposes said committee shall have the same power and authority as that conferred upon it by said House Resolution 282 of the Seventy-fifth Congress and shall report to the House as soon as practicable but not later than April 1, 1942, the results of its investigations, together with its recommendations for necessary legislation.

The resolution was agreed to on February 11, 1941 (87 Congressional Record 899).

*Report*—The committee submitted its report on June 25, 1942 (H. Rept. No. 2277, 77th Cong.), and its Minority Views on July 7, 1942 (H. Rept. No. 2277, pt. 2, 77th Cong.).

House Resolution 420—"The Dies Committee"—*Continuation:*

*Resolved.* That the Special Committee To Investigate Un-American Activities is authorized to continue the investigation begun under authority of House Resolution 282 of the Seventy-fifth Congress and continued under House Resolution 26 of the Seventy-sixth Congress, and continued under House Resolution 321 of the Seventy-sixth Congress, and continued under House Resolution 90 of the Seventy-seventh Congress, and for such purposes said committee shall have the same power and authority as that conferred upon it by said House Resolution 282 of the Seventy-fifth Congress and shall report to the House as soon as practicable, but not later than January 3, 1943, the results of its investigations, together with its recommendations for necessary legislation.

The resolution was agreed to on March 11, 1942 (88 Congressional Record 2297).

*Report*—The committee submitted its report on January 2, 1943 (H. Rept. No. 2748, 77th Cong., 2d sess.), entitled "Special Report on Subversive Activities Aimed at Destroying Our Representative Form of Government." This report included minority views.

### *Seventy-eighth Congress*

House Resolution 65—"The Dies Committee"—*Continuation:*

*Resolved.* That the Special Committee to Investigate Un-American Activities is authorized to continue the investigation begun under authority of House Resolution 282 of the Seventy-fifth Congress, and continued under House Resolution 26 of the Seventy-sixth Congress, and continued under House Resolution 321 of the Seventy-sixth Congress, and continued under House Resolution 90 of the Seventy-seventh Congress, and continued under House Resolution 420 of the Seventy-seventh Congress, and for such purposes said committee shall have the same power and authority as that conferred upon it by said House Resolution 282 of the Seventy-fifth Congress and shall report to the House as soon as practicable, but not later than January 3, 1945, the results of its investigations, together with its recommendations

for necessary legislation: *Provided*, That the special committee herein continued shall be composed of eight members.

The resolution was agreed to on February 10, 1943 (89 Congressional Record 810).

*Report*—Japanese War Relocation Centers, September 30, 1943 (H. Rept. 717, 78th Cong., 1st sess.).

*Report*—The committee submitted two reports in the second session:

February 17, 1944 (H. Rept. No. 1161, 78th Cong., 2d sess.), entitled The Peace Now Movement;

March 29, 1944 (H. Rept. No. 1311, 78th Cong., 2d sess.), entitled The CIO Political Action Committee.

House Resolution 105, 78th Congress, 1st session:

*Resolved*, That the Committee on Appropriations, acting through a special subcommittee thereof appointed by the chairman of such committee for the purpose of this resolution, is authorized and directed to examine into any and all allegations or charges that certain persons in the employ of the several executive departments and other executive agencies are unfit to continue in such employment by reason of their present association or membership or past association or membership in or with organizations whose aims or purposes are or have been subversive to the Government of the United States. Such examination shall be pursued with the view of obtaining all available evidence bearing upon each particular case and reporting to the House the conclusions of the committee with respect to each such case in the light of the factual evidence obtained. Any legislation approved by the committee as a result of this resolution may be incorporated in any general or special appropriation measure emanating from such committee or may be offered as a committee amendment to any such measure notwithstanding the provisions of Clause 2 of Rule XXI.

For the purpose of this resolution, such committee or any subcommittee thereof is hereby authorized to sit and act during the present Congress at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses, and production of such books or papers or documents or vouchers by subpoena or otherwise, and to take such testimony and records as it deems necessary. Subpoenas may be issued over the signature of the chairman of the committee or subcommittee, or by any person designated by him, and shall be served by such person or persons as the chairman of the committee or subcommittee may designate. The chairman of the committee or subcommittee, or any member thereof, may administer oaths to witnesses.

The resolution was adopted February 9, 1943 (89 Congressional Record 742). The report that came from the investigation, House Report 448, 78th Congress, 1st session, was submitted on May 14, 1943.



*Seventy-ninth Congress*

House Resolution 5—*House Committee on Un-American Activities*, known as “The Dies Committee” made a *standing committee*:

*Resolved*, That the rules of the Seventy-eighth Congress be, and they are hereby, adopted as the rules of the Seventy-ninth Congress;

That rule X of the Rules of the House of Representatives is amended by adding after clause 40a of the first paragraph a new clause to read as follows:

40b. On Un-American Activities, to consist of nine members.

Rule XI of the Rules of the House of Representatives is amended by adding after clause 40a two new clauses to read as follows:

40b. To Un-American Activities—to the Committee on Un-American Activities.

40c. The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (1) the extent, character, and objects of un-American propaganda activities in the United States, (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

This resolution was agreed to on January 3, 1945 (91 Congressional Record 15).

*Report*—The committee submitted the following reports during the 79th Congress, which were printed as House reports:

Proceedings Against the Joint Anti-Fascist Refugee Committee. H. Rept. No. 1936. April 16, 1946.

Sources of Financial Aid for Subversive and Un-American Propaganda. H. Rept. No. 1966. May 10, 1946.

Investigation of Un-American Activities and Propaganda. H. Rept. No. 2233. June 7, 1946.



Report of Investigation of Un-American Propaganda Activities in the United States. H. Rept. No. 2742. January 2, 1947.

Public Law 601, 79th Congress (60 Stat. 828, sec. 121(b)) 17 the *Legislative Reorganization Act*, continues the House Committee on Un-American Activities as a standing committee. For details, see Part I of this manual.

### *Eightieth Congress*

The House Committee on Un-American Activities submitted the following reports during the 80th Congress:

The Communist Party of the United States as an Agent of a Foreign Power. H. Rept. No. 209. April 1, 1947.

Report of Subcommittee on proposed legislation to control subversive Communist activities in the United States. Committee Print. April 10, 1948.

American Youth for Democracy. H. Rept. No. 271. April 17, 1947.

Protecting the United States against Un-American and Subversive Activities. H. Rept. 1844. April 28, 1948.

Southern Conference for Human Welfare. H. Rept. No. 592. June 16, 1947.

Civil Rights Congress as a Communist-front Organization. H. Rept. No. 1115. September 2, 1947.

Report on Communist Party of the United States as an Advocate of Overthrow of Government by Force and Violence. H. Rept. No. 1920. May 11, 1948.

100 Things You Should Know About Communism in the U.S.A. June 18, 1948.

Interim Report on Hearings Regarding Communist Espionage in the United States Government. August 29, 1948.

Report on Soviet Espionage Activities in Connection with Atom Bomb. September 28, 1948.

Constitutionality of H.R. 5852, 80th Congress, 2d Session. Committee Print. June 3, 1948.

Citations by Official Government Agencies of Organizations and Publications Found to be Communist or Communist Fronts. December 18, 1948.

Soviet Espionage within the United States Government, Second Report. Committee Print. December 31, 1948.

The committee delivered its report to Congress on December 31, 1948: Report of the Committee on Un-American Activities to the United States House of Representatives, 80th Congress.

House Resolution 111—Committee on Education and Labor—*Studies and Investigations; Subpena Power*:

*Resolved*, That the Committee on Education and Labor acting as a whole or by subcommittee, is authorized and directed to conduct thorough studies and investigations relating to matters coming within the jurisdiction of such committee under rule XI (1) (g) of the Rules of the House of Representatives, and for such purposes the said committee or any subcommittee thereof

is hereby authorized to sit and act during the present Congress at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require by subpoena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member. The chairman of the committee or any member thereof may administer oaths to witnesses.

That the said committee shall report to the House of Representatives during the present Congress the results of their studies and investigations with such recommendations for legislation or otherwise as the committee deems desirable.

The resolution was agreed to on February 26, 1947 (93 Congressional Record 1457).

Under authority of this resolution, special subcommittees were established to investigate Communist infiltration of certain trades and industries:

Special Subcommittee to Investigate Communist Influence in the Bucyrus-Erie Strike.

Special Subcommittee to Investigate Communist Infiltration of United Electrical Radio and Machine Workers of America.

Special Subcommittee to Investigate Communist Infiltration of Maritime and Fisheries Unions.

Special Subcommittee to Investigate Teachers Union, Local No. 555—UPWA—CIO.

Special Subcommittee to Investigate Communist Infiltration Into the Fur Industry.

Special Subcommittee to Investigate Communism in New York City Distributive Trades.

The hearings before these special subcommittees were printed but no public reports were issued.

*The Committee on Foreign Affairs* established Subcommittee No. 5, with Mrs. Frances P. Bolton as chairwoman, in May of 1947. Among other matters, this subcommittee was to study such political movements as communism, fascism, and nationalism.

*Report*—The reports of this subcommittee were entitled "The Strategy and Tactics of World Communism" and were published as House Document 619, 80th Congress, and House Document 154, 81st Congress.

### *Eighty-first Congress*

The House Committee on Un-American Activities submitted the following reports during the 81st Congress:

Annual Report of the Committee on Un-American Activities for the year 1949. Committee Print. March 15, 1950.

Annual Report of the Committee on Un-American Activities for the year 1949. H. Rept. No. 1950. April 26, 1950.

American-Slav Congress and Associated Organizations. H. Rept. No. 1951. April 26, 1950.

Atomic Espionage. H. Rept. No. 1952. April 26, 1950.

Congress of American Women. H. Rept. No. 1953. April 26, 1950.

Scientific and Cultural Conference for World Peace—Review arranged by the National Council of the Arts, Sciences, and Professions and held in New York City, March 25, 26 and 27, 1949. H. Rept. No. 1954. April 26, 1950.

Publications of the Committee on Un-American Activities. Index III to. Committee Print. June 28, 1950.

The Communist "Peace Petition" Campaign. Committee Print. July 13, 1950.

Amending the Nationality Act of 1940 (H. Rept. No. 2914, Conference Report.) August 14, 1950.

Protection of the United States Against Un-American and Subversive Activities. Report to accompany H.R. 9494, Internal Security Act of 1950. H. Rept. No. 2980. August 22, 1950.

Hawaii Civil Liberties Committee—a Communist Front. H. Rept. No. 2986. August 24, 1950.

Internal Security Act of 1950. (Conference Report 3112). September 19, 1950.

National Lawyers Guild—Legal Bulwark of the Communist Party. H. Rept. No. 3123. September 21, 1950.

Honolulu Record, Report on the. Committee Print. October 1, 1950.

National Committee to Defeat the Mundt Bill, Report on the—A Communist Lobby. Committee Print. December 7, 1950.

National Committee to Defeat the Mundt Bill—a Communist Lobby. H. Rept. No. 3248. January 2, 1951.

Annual Report of the Committee on Un-American Activities for the year 1950. H. Rept. No. 3249. January 2, 1951.

### *Eighty-second Congress*

The House Committee on Un-American Activities submitted the following reports during the 82d Congress:

The Communist "Peace" Offensive—a Campaign to Disarm and Defeat the United States. H. Rept. No. 378. April 25, 1951.

The Shameful Years—Thirty Years of Soviet Espionage in the United States. H. Rept. No. 1229. January 8, 1952.

Review of the Methodist Federation for Social Action, Formerly the Methodist Federation for Social Service. H. Rept. No. 1661. March 27, 1952.

100 Things You Should Know About Communism—Series. H. Doc. 136. May 14, 1951.

Guide to Subversive Organizations and Publications (and Appendix)—Revised. H. Doc. 137. May 14, 1951.

Annual Report of the Committee on Un-American Activities for the Year 1951. H. Rept. No. 2431. July 2, 1952.

Annual Report of the Committee on Un-American Activities for the Year 1952. H. Rept. No. 2516. January 3, 1953.

Statement on the March of Treason—a Study of the American “Peace” Crusade. Committee Print. February 19, 1951.

Index IV to Publications of the Committee on Un-American Activities. Committee Print. April 25, 1952.

Salary Increase for Members of the Subversive Activities Control Board. Report to accompany S. 2922. H. Rept. 2406. July 1, 1952.

House Resolution 561—*Select Committee to Study Tax Exemption of Certain Foundations and Organizations:*

*Resolved*, That there is hereby created a select committee to be composed of seven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of educational and philanthropic foundations and other comparable organizations which are exempt from Federal income taxation to determine which such foundations and organizations are using their resources for purposes other than the purposes for which they were established, and especially to determine which such foundations and organizations are using their resources for un-American and subversive activities or for purposes not in the interest or tradition of the United States.

The committee shall report to the House (or the Clerk of the House if the House is not in session) on or before January 1, 1953, the results of its investigation and study, together with such recommendations as it deems advisable.

For the purpose of carrying out this resolution, the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and acting during the present Congress at such times and places within the United States, its Territories, and possessions, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

The resolution was agreed to on April 4, 1952 (98 Congressional Record 3504).

The committee submitted its final report on January 1, 1953 (H. Rept. No. 2514, 82d Cong.).

*Eighty-third Congress*House Resolution 217—*Special Committee to Investigate Foundations:*

*Resolved*, That there is hereby created a special committee to be composed of five Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of educational and philanthropic foundations and other comparable organizations which are exempt from Federal income taxation to determine if any foundations and organizations are using their resources for purposes other than the purposes for which they were established, and especially to determine which such foundations and organizations are using their resources for un-American and subversive activities; for political purposes and propaganda, or attempts to influence legislation.

The committee shall report to the House (or to the Clerk of the House if the House is not in session) on or before January 3, 1955, the results of its investigation and study, together with such recommendations as it deems advisable.

For the purpose of carrying out this resolution, the committee or any duly authorized subcommittee thereof, is authorized to sit and act during the present Congress at such times and places and within the United States, its Territories, and possessions, whether the House is in session, has recessed, or has adjourned, to hold hearings, administer oaths, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

Upon the passage of this resolution, the Sergeant at Arms of the House is authorized and directed to ascertain the location of all books, papers, files, correspondence, and documents assembled by their former select committee under House Resolution 561, Eighty-Second Congress, and take same into his custody, depositing such records with the Clerk under rule XXXVI. The Clerk of the House is hereby authorized to loan such records and files to the special committee established by this resolution for the official use of the special committee during the Eighty-third Congress or until January 3, 1955, when they will be returned in accordance with said rule.

This resolution was agreed to on July 27, 1953 (99 Daily Congressional Record 10203).

*Reports*—The committee issued the following reports:

A report from Norman Dodd, director of research, cover-



ing his direction of the staff of the Special Committee of the House of Representatives To Investigate Tax Exempt Foundations, for the 6-month period November 1, 1953, to April 30, 1954 (June 4, 1954).

Staff Report No. 1: Capital Values and Growth of Charitable Foundations (November 23, 1954).

Staff Report No. 2: Relations Between Foundations and Government (November 23, 1954).

Staff Report No. 3: Economics and the Public Interest (November 23, 1954).

Staff Report No. 4: Summary of Activities of the Carnegie Corp., of New York; the Carnegie Foundation for the Advancement of Teaching; the Carnegie Endowment for International Peace; the Rockefeller Foundation; the Rockefeller General Education Board (November 23, 1954).

The House Committee on Un-American Activities has issued the following publications:

Index V, Cumulative Index to Publications of the Committee on Un-American Activities. January 19, 1953.

Rules and Procedure, Committee on Un-American Activities. July 15, 1953.

Organized Communism in the United States. Reprinted in 1954 as H. Rept. 1694, 83d Congress. August 19, 1953.

Annual Report of the Committee on Un-American Activities for the year 1953. Reprinted on February 8, 1954 as H. Rept. 1192. February 6, 1954.

Registration of Communist Printing Presses. Report to accompany H.R. 9690. H. Rept. 2194. July 13, 1954.

Subversive Activities Control Act Amendments of 1954. Report to accompany H.R. 9838. H. Rept. 2651. August 9, 1954.

Subversive Activities Control Act Amendments of 1954. Minority views to accompany H.R. 9838. August 10, 1954.

Colonization of America's Basic Industries by Communist Party of U.S.A. September 3, 1954.

This Is Your House Committee on Un-American Activities. September 19, 1954.

Preliminary Report on Neo-Fascist and Hate Groups. December 17, 1954.

Report on the March of Labor. December 22, 1954.

The American Negro in the Communist Party. December 22, 1954.

Annual Report of the Committee on Un-American Activities for the Year 1954. Reprinted on February 16, 1955 as H. Rept. 57. January 26, 1955.

House Resolution 346 as amended by House Resolution 438—*Select Committee To Investigate Communist Aggression*:

*Resolved*, That there is hereby created a select committee to be composed of nine Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the

committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of (1) the seizure and forced "incorporation" of Lithuania, Latvia, and Estonia by the Union of Soviet Socialist Republics and the treatment of said Baltic peoples during and following said seizure and "incorporation;" and (2) the subversion and destruction of free institutions and human liberties in all other areas controlled, directly or indirectly, by world communism, including the treatment of the people in such areas.

The committee shall report to the House (or to the Clerk of the House if the House is not in session) as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within and after March 1, 1954, outside the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

This resolution was agreed to on July 27, 1953 (99 Cong. Rec. 10031), and was amended on March 4, 1954 (100 D. Cong. Rec. 2564).

*Reports*—The committee issued the following reports:

First Interim Report—printed in part 1 of the hearings (for hearings, see Part V of this Manual).

Second Interim Report (August 9, 1954) (H. Rept. 2650).

Third Interim Report (November 15, 1954).

Report of the Subcommittee To Investigate Communist Aggression in Latin America, to the Select Committee on Communist Aggression (November 19, 1954).

Special Report No. 1, House Report No. 2684, Part 3: Communist Takeover and Occupation of Poland (December 31, 1954).

Polish Documents Report, House Report No. 2684, Part 4: Appendix to Committee Report on Communist Takeover and Occupation of Poland (December 31, 1954).

Special Report No. 2, House Report No. 2684, Part 5: Treatment of the Jews Under Communism (December 31, 1954).

Special Report No. 3, House Report No. 2684, Part 6: Communist Takeover and Occupation of Estonia (December 31, 1954).

Special Report No. 4, House Report No. 2684, Part 7: Communist Takeover and Occupation of Ukraine (December 31, 1954).

Special Report No. 5, House Report No. 2684, Part 8: Communist Takeover and Occupation of Armenia (December 31, 1954).

Special Report No. 6, House Report No. 2684, Part 9: Communist Takeover and Occupation of Georgia (December 31, 1954).

Special Report No. 7, House Report No. 2684, Part 10: Communist Takeover and Occupation of Bulgaria (December 31, 1954).

Special Report No. 8, House Report No. 2684, Part 14: Communist Takeover and Occupation of Czechoslovakia (December 31, 1954).

Special Report No. 9, House Report No. 2684, Part 11: Communist Takeover and Occupation of Byelorussia (December 31, 1954).

Special Report No. 10, House Report No. 2684, Part 12: Communist Takeover and Occupation of Hungary (December 31, 1954).

Special Report No. 11, House Report No. 2684, Part 15: Communist Takeover and Occupation of Rumania (December 31, 1954).

Special Report No. 12, House Report No. 2684, Part 1: Communist Takeover and Occupation of Latvia (December 30, 1954).

Special Report No. 13, House Report No. 2684, Part 2: Communist Takeover and Occupation of Albania (December 30, 1954).

Special Report No. 14, House Report No. 2684, Part 13: Communist Takeover and Occupation of Lithuania (December 31, 1954).

Summary Report, House Report No. 2684, Part 16 (December 31, 1954).

*The House Committee on Government Operations*, through its *Subcommittee on International Operations*, made a study of security and personnel procedures in the State Department.

*Report*—Its report was submitted as the Tenth Intermediate Report of the Committee on Government Operations and was entitled "Security and Personnel Practices and Procedures of the Department of State" (March 9, 1954) H. Rept. 1334).

### *Eighty-fourth Congress*

*The House Committee on Un-American Activities* submitted the following reports and consultations during the 84th Congress.

Cumulative Index to Publications of the Committee of Un-American Activities, 1938-1954.

Annual Report of the Committee on Un-American Activities for the year 1955 (also printed as H. Rept. 1648, 84th Congress).

The Great Pretense—A Symposium on Anti-Stalinism and the 20th Congress of the Soviet Communist Party—House Report 2189.

The Communist Conspiracy—Part 1 (Communism Outside the United States), Section A: Marxist Classics, House Report 2240.

The Communist Conspiracy—Part 1 (Communism Outside the United States), Section B: The U.S.S.R., House Report 2241.

The Communist Conspiracy—Part 1 (Communism Outside the United States), Section C: The World Congresses of the Communist International, House Report 2242.

The Communist Conspiracy—Part 1 (Communism Outside the United States), Section D: Communist Activities Around the World, House Report 2243.

The Communist Conspiracy—Part 1 (Communism Outside the United States), Section E: The Comintern and the CPUSA, House Report 2244.

Trial By Treason (The National Committee to Secure Justice for The Rosenbergs and Morton Sobell).

Soviet Total War, "Historic Mission" of Violence and Deceit—Volume I

Soviet Total War, "Historic Mission" of Violence and Deceit—Volume II.

Guide to Subversive Organizations and Publications—Revised.

Annual Report of the Committee on Un-American Activities for the Year 1956 (also reprinted as H. Rept. 53, 85th Congress).

### *Eighty-fifth Congress*

*The House Committee on Un-American Activities* submitted the following reports and consultations during the 85th Congress.

International Communist Propaganda Activities—January 30, 1957.

International Communism (Red China and the Far East)—Chiu Yuan Hu—February 1, 1957.

International Communism (Revolt in the Satellites, 1956)—Dr. Jan Karski, Mikail Farcasanu, Josept Lipski, Monsignov Bela Varga, Bela Fabian, Stevan Barankovics, Stanislaw Mikolajczyk, Ferenc Nagy—October 29, 30; November 1, 17, 20, 1956.

International Communism (Revolt in the Satellites)—1957—Janos Horvath & Sandor Kiss—March 20, 1957.

International Communism (Communist Control of Estonia)—August Rei—May 10, 1957.

International Communism (The Communist Mind)—Frederick Charles Schwarz—May 29, 1957.

International Communism (Communist Penetration of Malaya and Singapore)—Kuo-Shuen Chang—May 29, 1957.

International Communism (The Communist Trade Offensive)—Joseph Anthony Marcus, Christopher Emmet, Nicolas de Rochefort—June 26, 1957.

International Communism (The Present Posture of the Free World)—Constantine Brown—October 21, 1957.

International Communism (Espionage) (Excerpts of Consultation With Counterspy Boris Morros)—August 16, 1957.

The Ideological Fallacies of Communism—Rabbi S. Andhil Fineberg, Bishop Fulton J. Sheen, Dr. Daniel A. Poling—September 4, 25; October 18, 1957.

Report on Communist Political Subversion—(The Campaign To Destroy the Security Programs of the United States Government)—House Report 1182—August 16, 1957.

“Operation Abolition” (The Campaign Against the House Committee on Un-American Activities, The Federal Bureau of Investigation, The Government Security Program by the Emergency Civil Liberties Committee and Its Affiliates)—November 8, 1957.

Who Are They?—Khrushchev and Bulganin (U.S.S.R.)—Part 1—July 12, 1957.

Who Are They?—Mao Tse-tung and Chou En-lai (Communist China)—Part 2—August 23, 1957.

Who Are They?—Georgi Zhukov and Ivan Konev (U.S.S.R.)—Part 3—August 30, 1957.

Who Are They?—Walter Ulbricht and Janos Kadar (East Germany and Hungary)—Part 4—September 1957.

Who Are They?—Josip Broz Tito and Wladyslaw Gomułka (Yugoslavia and Poland)—Part 5—October 11, 1957.

Who Are They?—Kim Il Sung and Ho Chi Minh (North Korea and North Viet-Nam)—Part 6—October 25, 1957.

Who Are They?—Maurice Thorez and Palmiro Togliatti (France and Italy)—Part 7—November 22, 1957.

Annual Report for the Year 1957 (also printed as H. Rept. 1360, 85th Congress).

The Communist Program for World Conquest. Gen. Albert C. Wedemeyer, U.S.A., January 21, 1958.

Communist Psychological Warfare (Brainwashing). Edward Hunter, March 13, 1958.

International Communism (Communist Propaganda Activities in Canada). Milan Jakubec, April 3, 1958.

Communist Psychological Warfare (Thought Control). Constantin W. Boldyreff, April 7, 1958.

International Communism (Communist Encroachment in the Far East). Maj. Gen. Claire Lee Chennault, U.S.A., April 23, 1958.

What Is Behind the Soviet Proposal for a Summit Conference? Dr. David J. Dallin, Dr. Anthony T. Bouscaren, Dr. James D. Atkinson, Francis J. McNamara, April 30, 1958.



Communist Strategy of Protracted Conflict. Dr. Robert Strausz-Hupé, Alvin J. Cottrell, James E. Dougherty, May 20, 1958.

The Ideology of Freedom vs. The Ideology of Communism. Dr. Charles Wesley Lowry, June 5, 1958.

The Irrationality of Communism. Dr. Gerhart Niemeyer, August 8, 1958.

International Communism in Yugoslavia—The Myth of "Titoism." Dr. Alex N. Dragnich, September 15, 1958.

Chronicle of Treason. Representative Francis E. Walter, March 3-9, 1958.

The Erica Wallach Story. March 21, 1958.

Legislative Recommendations by House Committee on Un-American Activities. June 1958.

The House Committee on Un-American Activities—What It Is—What It Does. July 1958.

Organized Communism in the United States. Revised May 1958.

Patterns of Communist Espionage. January 1959.

Who Are They? Vicente Lombardo Toledano and Luis Carlos Prestes (Mexico-Brazil). Part 8. February 21, 1958.

Who Are They?—Enver Hoxha (Albania) and Gheorghe Gheorghiu-Dej (Rumania). Part 9, August 5, 1958.

Supplement to Cumulative Index to Publications of the Committee on Un-American Activities, 1955 and 1956. December 1958.

Annual Report for the Year 1958 (also printed as House Rept., 86th Congress).

### *Eighty-Sixth Congress*

*The House Committee on Un-American Activities* submitted the following reports and consultations during the 86th Congress.

Language as a Communist Weapon. Dr. Stefan T. Posony, March 2, 1959.

Communist Persecution of Churches in Red China and Northern Korea. Five Church Leaders: Rev. Peter Chu Pong, Rev. Shihping Wang, Rev. Tsin-tsai Liu, Rev. Samuel W. S. Cheng, Mr. Kyung Rai Kim, March 26, 1959.

Control of the Arts in the Communist Empire. Ivan P. Bahriany, June 3, 1959.

The Crimes of Khrushchev, Part 1. Mr. Eugene Lyons, September 4, 1959.

The Crimes of Khrushchev, Part 2. Dr. Lev E. Dobriansky, Mr. Petro Pavlovych, Prof. Dr. Ivan M. Malinin, Mr. Nicholas Prychodko, Mr. Constantin Kononenko, Mr. Mykola Lebed, Dr. Gregory Kostiuk, Prof. Ivan Wowchuk, Mr. Jurij Lawrynenko, September 9-11, 1959.

The Crimes of Khrushchev, Part 3. Gen. Bela Kiraly and Mr. Joseph Kovago, September 10, 1959.

The Crimes of Khrushchev, Part 4. Dr. Vilis Masens and Mr. Vaclovas Sidzikauskas, September 21, 1959.

Communist Legal Subversion, The Role of the Communist Lawyer. H. Rept. No. 41, February 16, 1959.

Report on the Southern California District of the Communist Party, Structure—Objectives—Leadership, H. Rept. No. 259, April 3, 1959.

Who Are They?—Karl Marx. Part 10, August 28, 1959.

Communist Lobbying Activities in the Nation's Capital. September 3, 1959.

The Communist Parcel Operations. September 25, 1959.

Facts on Communism—Volume I—Communist Ideology. December 1959.

Annual Report for 1959 (also printed as H. Rept. 1251, 86th Congress).

The Crimes of Khrushchev, Part 5. Mr. Joseph Pauev, Father Theodoric Joseph Zubek, Mr. Nuci Kotta, and Mr. Arshi Pipa. December 17, 1959.

The Crimes of Khrushchev, Part 6. Mr. Rusi Nasar, Mr. Ergoesh Schermatoglu, Mr. Constant Mierlak, Dr. Vitaut Tumash, and Mr. Anton Shukeloyts. December 17, 1959.

The Crimes of Khrushchev, Part 7. Mr. Guevy Zaldostani, Mr. George Nakashidse, Mr. Dimitar K. Petkoff, and Mrs. Catherine Bayan Choukanoff. January 8, 1960.

Lest We Forget! A Pictorial Summary of Communism in Action. Mr. Klaus Samuli Gunnar Romppanen. January 13, 1960.

Soviet "Justice:" "Showplace" Prisoners vs. Real Slave Labor Camps. Mr. Adam Joseph Galinski. April 4, 1960.

Communist Economic Warfare. Dr. Robert Loring Allen. April 6, 1960.

How the Chinese Reds Hoodwink Visiting Foreigners. Mr. Robert Loh. April 21, 1960.

Communist Target—Youth: Communist Infiltration and Agitation Tactics. July 1960.

The Communist Led Riots Against the House Committee on Un-American Activities in San Francisco, California, May 12–14, 1960. H. Rept. 2228, October 7, 1960.

World Communist Movement: Selective Chronology 1818–1957. Vol. I, 1818–1945. August 1960.

Facts on Communism: Vol. II—The Soviet Union, From Lenin to Khrushchev, December 1960.

Legislative Recommendations by House Committee on Un-American Activities, December 1960.

Annual Report for 1960 (also printed as H. Rept. 2237, 86th Congress).

### *Eighty-seventh Congress*

The House Committee on Armed Services submitted the following prints and reports during the 87th Congress.

Report of the Special Subcommittee on Defense of the Southeastern United States. September 19, 1962.

The House Committee on the Judiciary submitted the following prints and reports during the 87th Congress.

Immigration and Nationality Act, with amendments and notes on related laws (revised through January 10, 1962). Committee Print.

Provisions of Federal Law in Effect in Time of National Emergency. Committee Print, January 25, 1962.

The House Committee on Un-American Activities submitted the following prints and reports during the 87th Congress.

Rules of Procedure, Committee on Un-American Activities, Revised 1961.

U.S. Merchant Vessel and Waterfront Security Act of 1960, House Report 25, 87th Congress (to accompany H.R. 4469), February 23, 1961.

Amending the Subversive Activities Control Act of 1950, House Report 309, 87th Congress, Parts 1 and 2 (to accompany H.R. 5751), April 26, 1961 and September 14, 1961.

Supplement to Cumulative Index to Publications of the Committee on Un-American Activities, 1955 through 1960, June 1961.

Dissemination of Communist Propaganda in the United States House Report 309—Part 2, 87th Congress (to accompany H.R. 5751), September 14, 1961.

The Truth About the Film "Operation Abolition," House Report 1278—Part 1, October 5, 1961.

Manipulation of Public Opinion by Organizations Under Concealed Control of the Communist Party (National Assembly for Democratic Rights and Citizens Committee for Constitutional Liberties), House Report 1282—Parts 1 and 2, 87th Congress, November 30, 1961.

Guide to Subversive Organizations and Publications (And Appendixes), December 1, 1961.

Communist Penetration of Radio Facilities (CONELRAD—Communications)—Part 2, House Report 1283, December 5, 1961.

The Truth About the Film "Operation Abolition," House Report 1278—Part 2, December 27, 1961.

The New Role of National Legislative Bodies in the Communist Conspiracy. December 30, 1961.

Annual Report for 1961 (also printed as H. Rept. 2559, 87th Congress).

Publication in Federal Register of Lists of Defense Facilities, House Report 1362, 87th Congress (to accompany H.R. 9753), February 19, 1962.

Protection of Classified Information Released to U.S. Industry and Defense Contractors, House Report 1665, 87th Congress (to accompany H.R. 11363), May 8, 1962.

Protection of Classified Information Released to U.S. Industry and Defense Contractors, House Report 1945, 87th Congress (to accompany H.R. 11363), June 28, 1962.

Amending the Internal Security Act of 1950 To Provide for Maximum Personnel Security in the National Security Agency, House Report 2120, 87th Congress (to accompany H.R. 12082), August 2, 1962.

Security Practices in the National Security Agency (Defection of Bernon F. Mitchell and William H. Martin), August 13, 1962.

The Communist Party's Cold War Against Congressional Investigation of Subversion, October 10, 1962.

Communist and Trotskyist Activity Within the Greater Los Angeles Chapter of the Fair Play for Cuba Committee, November 2, 1962.

Annual Report for 1962 (also printed as H. Rept. 176, 88th Congress).

### *Eighty-eighth Congress*

The House Committee on Foreign Affairs submitted the following prints and reports during the 88th Congress.

Report of the Special Study Mission on the Soviet Economic Offenses in Western Europe. H. Rept. 32, February 7, 1963.

Report of the Subcommittee on Inter-American Affairs in Castro Communist Subversion in the Western Hemisphere. H. Rept. 195, April 4, 1963.

Report on the Subcommittee on Europe on Hearings in Captive European Nations. H. Rept. 253, April 29, 1963.

Report to Promote the Maintenance of International Peace and Security in Southeast Asia. H. Rept. 1708, August 6, 1964.

The Conduct of Communist China. Committee Print, September 5, 1963.

The House Committee on Un-American Activities submitted the following prints and reports during the 88th Congress.

"United Front" Technique of the Southern California District of the Communist Party, Report and Appendix. H. Rept. 631, July 31, 1963.

Amending the Internal Security Act of 1950 to Provide for Maximum Personnel Security in the National Security Agency. H. Rept. 108 (to accompany H.R. 950), March 13, 1963.

World Communist Movement: Selective Chronology 1818-1957. Vol. II, 1946-1950.

Annual Report for the Year 1963. Also printed as H. Rept. 1739, 88th Congress.

World Communist Movement: Selective Chronology 1818-1957. Vol. III, 1951-1953.

Annual Report for the Year 1964. Also Printed as H. Rept. 971, 89th Congress.

Communist and Trotskyist Activity Within the Greater Los Angeles Chapter of the Fair Play for Cuba Committee.

Testimony of Albert J. Lewis and Steve Roberts, including index. Committee Print, November 2, 1962.

Communist in a "Worker's Paradise," John Santo's Own Story. March 1-5, 1963.

*Eighty-ninth Congress*

The House Committee on Armed Services submitted the following prints and reports during the 89th Congress.

Statement of Laszlo Szabo before the Central Intelligence Agency Subcommittee. Committee Print (undated).

The House Committee on Foreign Affairs submitted the following prints and reports during the 89th Congress.

Communism in Latin America. Committee Print, April 14, 1965 (also printed as H. Rept. 237).

Sino-Soviet Conflict. Committee Print, May 14, 1965.

The House Committee on Merchant Marine and Fisheries submitted the prints and reports during the 89th Congress.

The Soviets and the Seas. Report of a Congressional Delegation to Poland and the Soviet Union. August 4, 1966.

The House Committee on Un-American Activities submitted the following prints and reports during the 89th Congress.

World Communist Movement: Selective Chronology 1818-1957. Vol. IV, 1954-1955.

Freedom Commission and Freedom Academy. H. Rept. 629. July 20, 1965.

Rules of Procedure, Revised. September 14, 1965.

Vietnam, Anti-Vietnam Agitation and the Teach-in Movement, the Problem of Communist Infiltration and Exploitation. Committee Print, October 13, 1965.

Annual Report for the Year 1965. Also printed as H. Rept. 1928, 89th Congress.

Obstruction of the Armed Forces. H. Rept. 1908, August 29, 1966.

Organizational Conspiracies Act of 1966. House Rept. 2335, with separate and dissenting views. October 21, 1966.

Annual Report for the Year 1966. Also printed as H. Rept. 460, 90th Congress.

Proceedings Against James R. Jones. Committee Print, 1966.

Proceedings Against Marshall R. Kornegay. Committee Print, 1966.

*Nintieth Congress*

The House Committee on Banking and Currency submitted the following prints and reports during the 90th Congress.

Report on the Fiat-Soviet Auto Plant and Communist Economic Reforms. Committee Print, March 1, 1967.

The House Committee on Foreign Affairs submitted the following prints and reports during the 90th Congress.

Czechoslovakia—Report on Study Mission by Hon. John C. Culver. Committee Print, October 21, 1968.



Latin America-Communist Activities. Committee Print, July 3, 1967 (also printed as H. Rept. 481).

The Soviet Union and Scandinavia. H. Rept. 995, November 30, 1967.

The House Committee on Science and Astronautics submitted the following prints and reports during the 90th Congress.

Review of Soviet Space Program. Committee Print, November 20, 1967.

The House Committee on Un-American Activities submitted the following prints and reports during the 90th Congress.

Communist Origin and Manipulation of Vietnam Week (April 8-15, 1967). H. Doc. 186, March 31, 1967.

Obstruction of the Armed Forces. H. Rept. 326, May 31, 1967.

Organizational Conspiracies Act of 1967. H. Rept. 648, September 19, 1967.

Internal Security Act of 1950 Amendments. H. Rept. 733, October 4, 1967.

The Present Day Ku Klux Klan Movement. Committee Print, December 11, 1967.

Freedom Commission and Freedom Academy. H. Rept. 1050, December 15, 1967.

Annual Report for the Year 1967. Also printed as H. Rept. 1935, 90th Congress.

Amending the Subversive Activities Control Act of 1950. H. Rept. 1038, December 12, 1967.

Communist Commitment to Force and Violence. Committee Print, March 2, 1968.

Guerilla Warfare Advocates in the United States. H. Rept. 1351, 90th Congress.

### *Ninety-first Congress*

The House Committee on Armed Services submitted the following prints and reports during the 91st Congress.

"The Soviet Threat"—Speech by Honorable L. Mendel Rivers. Committee Print, September 28, 1970.

The House Committee on Foreign Affairs submitted the following prints and reports during the 91st Congress.

The New Strategy of Communism in the Caribbean. Report of a special study mission by Hon. Armestead I. Selden, Jr. Committee Print, November 2, 1969.

The House Committee on Government Operations submitted the following prints and reports during the 91st Congress.

Communist Strategy of employing dissatisfaction over land tenure conditions. Committee Print, August 1970.

The House Committee on Internal Security submitted the following prints and reports during the 91st Congress.

Internal Security Act of 1950, as amended, and the Communist Control Act of 1954 (Sections 1-5). The text of the acts with summary explanation of amendment prepared by

the Legislative Reference Service of the Library of Congress. Committee Print, 1969.

S.D.S. Plans for America's High Schools. December 12, 1969.

Defense Facilities and Industrial Security Act of 1970. H. Rept. 97-757, to accompany H.R. 14864.

Annual Report for the Year 1969. Also printed as H. Rept. 91-983.

Anatomy of a Revolutionary Movement: Students for a Democratic Society. H. Rept. 91-1565.

The Black Panther Party, Its Origin and Development as Reflected in Its Official Weekly Newspaper—The Black Panther Black Community News Service. A Staff Study introduced as an exhibit in the Black Panther Party hearings. Committee Print, October 6, 1970.

Subversive Involvement in the Origin, Leadership, and Activities of the New Mobilization Committee to End the War in Vietnam and Its Predecessor Organizations—A Staff Study introduced as an exhibit in the New Mobilization Hearings. Committee Print, 1970.

Proceedings Against Arnold S. Johnson. H. Rept. 91-1461.

A response by Congressman Ichord to the Dissenting View of Congressman Stokes. H. Rept. 91-757.

Emergency Detention Act of 1950 Amendments. H. Rept. 91-1599, to accompany H.R. 19163.

Obstruction of the Armed Forces. H. Rept. 91-1438, to accompany H.R. 959.

Report of Inquiry Concerning Speakers' Honoraria at Colleges and Universities (together with a dissenting view). H. Rept. 91-1732.

Annual Report for the Year 1970. Committee Print, February 25, 1970.

Supplement to Cumulative Index to Publications of the Committee on Un-American Activities, 1955-1968. September 1970.

### *Ninety-second Congress*

The House Committee on Armed Services submitted the following prints and reports during the 92d Congress.

United States-Vietnam Relations, 1945-1967—a study prepared by the Department of Defense. Committee Print, 1971.

Cuban Plane Incident at New Orleans. Committee Print, January 3, 1973.

The House Committee on Foreign Affairs submitted the following prints and reports during the 92d Congress.

National Security Policy and Changing World Power Alignment—outline and bibliography for spring 1972 hearing. Committee, 1972.

The House Committee on Internal Security submitted the following prints and reports during the 92d Congress.

Emergency Detention Act of 1950 Amendments. H. Rept. 92-94.

Gun-barrel Politics. Black Panther Party, 1966-1971. H. Rept. 92-470. August 16, 1971.

Communist in Trotsky Mold—Report on the Socialist Workers Party and Young Socialist Alliance. Committee Print, 1971.

America's Maoists: Revolutionary Union, Venceremos Organization. H. Rept. 92-1166.

Additional Function for the Subversive Activities Control Board. H. Rept. 92-1056, May 9, 1972.

Federal Civilian Employee Loyalty Program. Committee Print, 1972.

The House Committee on Science and Astronautics submitted the following prints and reports during the 92d Congress.

United States-U.S.S.R. cooperative agreements. Committee Print, August 1972.

## SECTION B. THE SENATE

### *Seventy-ninth Congress*

Senate Concurrent Resolution 28—*Joint Committee on Atomic Energy*.\*

*Resolved by the Senate (the House of Representatives concurring)*, That there is hereby created a joint congressional committee to be composed of six Members of the Senate to be appointed by the President pro tempore of the Senate and six Members of the House of Representatives to be appointed by the Speaker of the House of Representatives. The joint committee shall select a chairman from among its members. A vacancy in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original appointment.

SEC. 2. It shall be the duty of the joint committee to make a full and complete study and investigation with respect to the development, control, and use of atomic energy, with a view to assisting the Congress in dealing with the problems presented by its development, control, and use. The joint committee shall report to the Senate and House of Representatives, at the earliest practicable date, the results of its study and investigation, together with such recommendations as it deems advisable.

SEC. 3. For the purposes of this concurrent resolution, the joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Seventy-ninth Congress, to employ such clerical and other

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\* See Atomic Energy Act of 1954, 68 Stat. 919. The attention of readers is also invited to a publication issued by the Joint Committee on Atomic Energy, in April 1951, entitled "Soviet Atomic Espionage."

assistants, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the joint committee, which shall not exceed \$25,000, shall be paid from the contingent fund of the Senate, upon vouchers approved by the chairman of the joint committee.

This resolution was agreed to on September 27, 1945 (91 Congressional Record 9063).

### *Eightieth Congress*

Senate Resolution 189—*Investigations Subcommittee* of Committee on Expenditures in the Executive Departments (now the Committee on Government Operations). Approved January 28, 1948 (94 Congressional Record 605).

This resolution authorized the expenditure of \$125,000 for carrying out the duties imposed upon the committee by subsection (g) (2) (B) of rule XXV of the Standing Rules of the Senate. The subsection referred to covers "studying the operation of government activities at all levels with a view to determining its economy and efficiency."

Pursuant to Senate Resolution 189, the Investigations Subcommittee conducted an investigation concerning the loyalty of Federal employees.

*Report*—The committee published a report entitled "Investigation of Federal Employees Loyalty Program" (S. Rept. No. 1775, pts. 1-3, 80th Cong.).

### *Eighty-first Congress*

Senate Resolution 231—"The Tydings Committee" (investigation of Senator McCarthy's charges), Subcommittee of Senate Committee on Foreign Relations—*Investigation of Loyalty of State Department Employees*:

*Resolved*, That the Senate Committee on Foreign Relations, or any duly authorized subcommittee thereof, is authorized and directed to conduct a full and complete study and investigation as to whether persons who are disloyal to the United States are or have been employed by the Department of State. The committee shall report to the Senate at the earliest practicable date the results of its investigation, together with such recommendations as it may deem desirable, and if said recommendations are to include formal charges of disloyalty against any individual then the committee before making said recommendations, shall give said individual open hearings for the purpose of taking evidence or testimony on said charges. In the conduct of this study and investigation, the committee is directed to procure, by subpoena, and examine the complete loyalty and employment files and records of all the Government employees in the De-

partment of State and such other agencies against whom charges have been heard.

This resolution was agreed to on February 22, 1950 (96 Congressional Record 2150).

*Report*—The committee submitted its report as Senate Report No. 2108, parts 1 and 2, 81st Congress.

Senate Resolution 280—*Investigation of moral perverts:*

*Resolved*, That the Committee on Expenditures in the Executive Departments, or any duly authorized subcommittee thereof, is authorized and directed to make a thorough study and comprehensive investigation of (a) the alleged employment by the departments and agencies of the government of homosexuals and other moral perverts, and (b) the preparedness and diligence of authorities of the District of Columbia, as well as the appropriate authorities of the Federal Government for the protection of life and property against the threat to security, inherent in the employment of such perverts by such departments and agencies. The committee shall report to the Senate at the earliest practicable date, but no later than January 31, 1951, the results of its study and investigation and such recommendations for legislation and other remedial action as it may deem desirable.

For the purpose of this resolution, the committee or any duly authorized subcommittee thereof is authorized to employ upon a temporary basis such technical, clerical, and other assistants as it deems advisable. The expenses of the committee under this resolution, which shall not exceed \$10,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee or subcommittee.

The resolution was agreed to on June 7, 1950 (96 Congressional Record 8209).

Senate Resolution 366 —*The Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws:*

*Resolved*, That the Committee on the Judiciary, or any duly authorized subcommittee thereof is authorized and directed to make a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950; (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States; and (3) the extent, nature, and effect of subversive activities in the United States, its Territories and possessions, including, but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organizations controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence.

SEC. 2. The committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of the Senate, to



hold such hearings, to require by subpoenas or otherwise the attendance of such witnesses and the production of such books, papers and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and, within the amount appropriated therefor, to make such expenditures as it deems advisable. The cost of the stenographic services to report hearings of the committee or subcommittee shall not be in excess of 25 cents per hundred words. Subpoenas shall be issued by the chairman of the committee or subcommittee, or may be served by any person designated by such chairman.

A majority of the members of the committee, or duly authorized subcommittee thereof, shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the committee, or by such subcommittee, shall constitute a quorum for the purpose of administering oaths and taking sworn testimony.

SEC. 3. The committee or any duly authorized subcommittee, shall have the power to employ and fix the compensation of such officers, experts, and employees as it deems necessary in the performance of its duties, and is authorized to utilize the services, information, facilities, and personnel, in the opinion of the heads and agencies of the Government to the extent that such services, information, facilities, and personnel, in the opinion of the heads of such departments and agencies, can be furnished without undue interference with the performance of the work and duties of such departments and agencies.

SEC. 4. The expenses of the committee, which shall not exceed \$10,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee or before January 31, 1951.

This resolution was agreed to on December 21, 1950 (96 Congressional Record 16872).

### *Eighty-second Congress*

Senate Resolution 7 (97 Congressional Record 723)—Increases limit of Senate Resolution 366, 81st Congress, to \$150,000.

Senate Resolution 198 (97 Congressional Record 12208) and Senate Resolution 314 (98 Congressional Record 6195) appropriated funds for the *Special Subcommittee To Investigate the Administration of the Internal Security Act and Other Internal Security Laws*.

*Report*—The committee published the following reports during the 81st Congress:

Institute of Pacific Relations (report pursuant to Senate Resolution 366, 81st Cong.) S. Rept. No. 2050 July 2, 1952.

Activities of United States Citizens Employed by United Nations. Committee Print, 82d Congress, January 2, 1953.

Subversive and Illegal Aliens in the United States. Committee Print, 82d Congress, 1951.

Subversive and Illegal Aliens in the United States. (No. 2). Committee Print, 82d Congress, 1951.

Subversive Influence in the Educational Process. Committee Print. January 2, 1953.

Senate Resolution 244—*Subcommittee on Labor and Labor Management Relations*: Agreed to on January 24, 1952 (98 Congressional Record 469). This resolution authorized the Committee on Labor and Public Welfare to employ additional temporary personnel for holding hearings and making investigations as authorized by "subsection 1(1) of rule XXV of the Standing Rules of the Senate, or by sections 134(a) and 136 of the Legislative Reorganization Act of 1946." \$139,000 additional was authorized, this authority to expire on January 31, 1953.

Pursuant to this resolution, the Subcommittee on Labor and Labor Management Relations conducted an investigation concerning Communist domination of unions and national security.

*Report*—The subcommittee submitted the following reports:

Communist Domination of Certain Unions. S. Doc. 89, 82d Congress. October 19, 1951.

Communist Domination of Certain Unions, Part 2—Atomic Energy Commission Reply to Subcommittee Questionnaire. Committee Print, 82d Congress.

Communist Domination of Certain Unions, Part 3—Replies to Subcommittee Questionnaire From Attorneys in Labor Practice, Labor Leaders, Labor Press, University Professors, Employer Associations, and Government Officials. Committee Print, 82d Congress. 1952.

Communist Domination of Certain Unions, Part 4—Replies to Subcommittee Questionnaire, Concluding Installment of the Responses to the Questionnaire. Committee Print, 82d Congress. 1952.

Public Policy and Communist Domination of Certain Unions. S. Doc. 26, 83d Congress. March 2, 1953.

### *Eighty-third Congress*

Senate Resolution 40—*Permanent Subcommittee on Investigations*: Under the Legislative Reorganization Act of 1946 (60 Stat. 816, sec. g), the Committee on Government Operations, in addition to its other duties, was authorized to make studies of the operation of Government activities at all levels. The committee delegated this investigative power to the Senate Permanent Subcommittee on Investigations. In this Congress, Senator Joseph McCarthy is the chairman of this seven-man subcommittee.

Senate Resolution 40 authorized an amount of \$189,000 for expenditure between February 1, 1953 and January 31, 1954, in addition to the sum authorized under Senate Resolution 251, 82d Congress, for this subcommittee, and authorized employment of additional temporary personnel. This resolution was agreed to on January 30, 1953 (99 Daily Congressional Record 725).

Pursuant to this resolution the subcommittee has been investigating various phases of Communist connections with the State Department information program including the Voice of America, information centers (libraries), file survey, and the control of trade with the Soviet bloc.

Senate Resolution 189 authorized expenditure of \$207,273 in addition to the amount authorized by Senate Resolution 40, for the period ending January 31, 1955. This resolution was agreed to on February 2, 1954 (100 Daily Congressional Record 1064).

*Report*—The subcommittee has published the following reports:

State Department—File Survey. S. Rept. 836. October 12, 1953.

Transfer of Occupation Currency Plates—Espionage Phase. S. Rept. 837. December 15, 1953.

Korean War Atrocities. S. Rept. 848. January 11, 1954.

Report on State Department Information Program—Information Centers. S. Rept. 879. January 25, 1954.

Report on Waste and Mismanagement in Voice of America Engineering Projects. S. Rept. 880. January 25, 1954.

Annual Report of the Committee on Government Operations. S. Rept. 881. January 25, 1954.

Voice of America. S. Rept. 928. February 3, 1954.

Composite Index to hearings of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations for 1953. Committee Print. 1954.

Senate Resolution 46—*Internal Security Subcommittee* of the Committee on the Judiciary.

This resolution continued the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws, and increased the committee's limit of expenditures by \$150,000. The resolution was agreed to on January 30, 1953 (99 Daily Congressional Record 710).

Pursuant to this authority the subcommittee, under the chairmanship of Senator William Jenner, is currently conducting investigations of subversion.

Senate Resolution 172 increased the committee's limit of expenditures of \$10,000 agreed to under Senate Resolution 366 81st Congress, by \$170,000, placing the committee's present limitation of expenditures at \$180,000. This resolution was agreed to on January 27, 1954 (100 Daily Congressional Record 812).

*Report*—The subcommittee has submitted the following reports:

Subversive Influence in the Educational Process. Committee Print, 83d Congress, 1st session. July 17, 1953.

Interlocking Subversion in Government Departments. Committee Print, 83d Congress, 1st session. July 30, 1953.

Activities of United States citizens employed by the United Nations; second report of the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws. Committee Print. March 22, 1954.

*The Senate Committee on Foreign Relations*, through its *Special Subcommittee on Security Affairs* conducted a study on the strength of the international Communist movement. The committee released the following reports:

*Reports—*

Strength of the International Communist Movement. Committee Print. October 31, 1953.

Strength of International Communist Movement. Committee Print No. 2, May, 1954.

Federal Case Law Concerning the Security of the United States. Committee Print. September, 1954.

*Eighty-fourth Congress*

Senate Resolution 18—*Permanent Subcommittee on Investigations, Committee on Government Operations:*

*Resolved*, That the Communist Party of the United States is recognized to be a part of the international Communist conspiracy against the United States and all democratic forms of government. It is the sense of the Senate that its appropriate committees should continue diligently and vigorously to investigate, expose, and combat this conspiracy and all subversive elements and persons connected therewith, including the completion of all pending and unfinished investigations of such nature.

This resolution was agreed to on January 14, 1955 (Daily Congressional Record, p. 290).

*Report*—The subcommittee submitted the following reports:

Army Signal Corps—Subversion and Espionage. S. Rept. 230. April 25, 1955.

Annual Report of the Committee on Government Operations. S. Rept. 231. April 25, 1955.

Senate Resolution 58—*Internal Security Subcommittee of the Committee on the Judiciary:*

*Resolved*, That in holding hearings, reporting such hearings, and making investigations as authorized by section 134 of the Legislative Reorganization Act of 1946, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, insofar as they relate to the authority of the committee to make a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950; (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States; and (3) the extent, nature, and effect of subversive activities in the United States, its Territories and possessions, including but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organizations controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence, the Committee on the Judiciary, or any subcommittee thereof, is authorized from March 1, 1955, through January 31, 1956, (1) to make such expenditures as it deems advisable; (2) to employ on a temporary basis such technical, clerical, and other assistants and consultants as it deems advisable; and (3) with the consent of the heads of the department or agency concerned, to utilize the reimbursable services, information, facilities, and



personnel of any of the departments or agencies of the Government.

SEC. 2. The expenses of the committee under this resolution which shall not exceed \$260,000 shall be paid from the contingent fund of the Senate by vouchers approved by the chairman of the committee.

SEC. 3. This resolution shall be effective as of March 1, 1955. This resolution was agreed to on March 18, 1955 (Daily Congressional Record, pp. 2700-2702).

*Report*—The subcommittee submitted its annual report for the year 1954, on January 3, 1955 (committee print, 83d Cong. 2d sess.).

Senate Resolution 174—*Investigation of the Administration of the Internal Security Act of 1950 and Other Laws:*

*Resolved*, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate insofar as they relate to the authority of the committee hereunder, to make a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950; (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States; and (3) the extent, nature, and effect of subversive activities in the United States, its Territories and possessions, including but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organizations controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence.

SEC. 2. For the purposes of this resolution, the committee, from March 1, 1956, to January 31, 1957, inclusive, is authorized to (1) make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed \$261,250, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

### *Eighty-fifth Congress*

Senate Resolution 58—*Committee on the Judiciary, or any duly authorized subcommittee thereof*, approved January 30, 1957:

*Resolved*, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134 (a) and 136 of the Legislative Reorganization Act of 1946,



as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, insofar as they relate to the authority of the committee hereunder, to make a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950; (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States; and (3) the extent, nature, and effect of subversive activities in the United States, its Territories and possessions, including but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organizations controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1957, to January 31, 1958, inclusive, is authorized to (1) make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than \$1,200 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed \$289,291.45, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Senate Resolution 233—*Committee on the Judiciary or any duly authorized subcommittee thereof*—Approved January 29, 1958:

*Resolved*, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, insofar as they relate to the authority of the committee hereunder, to make a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950, as amended; (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States; and (3) the extent, nature, and effect of subversive activities in the United States, its Territories and possessions, including but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organizations controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1958, to January 31, 1959, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than \$1,200 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed \$209,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

*Eighty-sixth Congress*

Senate Resolution 59—*Committee on the Judiciary or any duly authorized subcommittee thereof*. Approved February 2, 1959:

*Resolved*, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by Rule XXV of the Standing Rules of the Senate, insofar as they relate to the authority of the committee hereunder, to make a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950, as amended; (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States; and (3) the extent, nature, and effect of subversive activities in the United States, its Territories and possessions, including but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organizations controlling world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1959, to January 31, 1960, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than \$1,200 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to

utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed \$224,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Senate Resolution 115—*Committee on Government Operations*. Approved July 14, 1959:

*Resolved*, That in holding hearings, reporting such hearings, and making investigations as authorized by section 134 of the Legislative Reorganization Act of 1946, and in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Government Operations, or any subcommittee thereof, is authorized, from the date of approval of this resolution through January 31, 1960, to make studies as to the efficiency and economy of operations of all branches of the Government with particular reference to—

(1) the effectiveness of the present organizational structures and operational methods of agencies and instrumentalities of the Federal Government at all levels in the formulation, coordination, and execution of an integrated national policy for the solution of the problems of survival with which the free world is confronted in the contest with world communism;

(2) the capacity of such structures and methods to utilize with maximum effectiveness the skills, talents, and resources of the Nation in the solution of those problems; and

(3) development of whatever legislative and other proposals or means may be required whereby such structures and methods can be reorganized or otherwise improved to be more effective in formulating, coordinating, and executing an integrated national policy, and to make more effective use of the sustained, creative thinking of our ablest citizens for the solution of the full range of problems facing the free world in the contest with world communism.

SEC. 2. For the purposes of this resolution the committee, from date of approval of this resolution to January 31, 1960, inclusive, is authorized—

(1) to make such expenditures as it deems advisable;

(2) to employ upon a temporary basis and fix the compensation of technical, clerical, and other assistants and consultants: *Provided*, That the minority of the committee is authorized at its discretion to select one such person for appointment, and the person so selected shall be appointed and shall receive compensation at an annual gross rate not less by more than \$1,200 than the highest gross rate paid to any other employee; and

(3) with the prior consent of the head of the department or agency concerned, and the Committee on Rules and Administration, to utilize on a reimbursable basis the services,

information, facilities, and personnel of any department or agency of the Government.

SEC. 3. Expenses of the committee under this resolution, which shall not exceed \$50,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Senate Resolution 242—*Committee on the Judiciary or any duly authorized subcommittee thereof*. Approved February 9, 1960:

*Resolved*, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, insofar as they relate to the authority of the committee hereunder, to make a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950, as amended; (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States; and (3) the extent, nature, and effect of subversive activities in the United States, its territories and possessions, including, but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organization controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1960, to January 31, 1961, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than \$1,200 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed \$239,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

### *Eighty-seventh Congress*

The Senate Committee on Aeronautical and Space Sciences submitted the following prints and reports during the 87th Congress.

Soviet Space Programs; Organization, Plans, Goals, and International Implications. Committee Print, May 31, 1962.



The Senate Committee on Government Operations submitted the following prints and reports during the 87th Congress.

The Secretary of State and the National Security Policy Process. Committee Print, January 28, 1961.

The Private Citizen and the National Security. Committee Print, February 28, 1961.

Science Organization and the President's Office. Committee Print, June 14, 1961.

The Bureau of Budget and the Budgetary Process. Committee Print, October 16, 1961.

Final Statements of Senator Henry M. Jackson, Chairman. Committee Print, November 15, 1961.

Administration of National Security. Committee Print.

1. Bibliography, December 28, 1962.

2. Selected Papers, December 31, 1962.

The Senate Committee on the Judiciary submitted the following prints and reports during the 87th Congress.

State Statutes on Wiretapping. Committee Print, April 24, 1961.

Testimony of Dr. Linus Pauling, June 21 and October 11, 1960. Committee Print, 1961.

Bang-Jensen Case. Committee Print, September 14, 1961.

Yugoslav Communism, a critical study. Committee Print, October 18, 1961.

Communist Party Line. Committee Print, 1961.

Soviet Oil in the Cold War. Committee Print, 1961.

Current Communist Threat; A Statement by J. Edgar Hoover. Committee Print, October 1962.

Guide To Communist Tactics Among the Unemployed. Committee Print.

Problems Raised by the Soviet Oil Offensive. Committee Print.

Real Productivity of Soviet Russia, a Critical Evaluation. Committee Print.

State Department Security, the Case of William Wieland; the new Passport Regulations; the Office of Security. Committee Print.

Supplement to Cumulative Index to Published Hearings and Reports of the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws, 1959-1960. Committee Print.

Wiretapping and Eavesdropping; Summary Report of Hearings, 1958-1961. Committee Print.

Wordsmanship Semantics as a Communist Weapon. Committee Print.

The Senate Committee on Rules and Administration submitted the following prints and reports during the 92d Congress.

United States Senate Travel Regulations. Committee Print, August 14, 1961.



*Eighty-eighth Congress*

The Senate Committee on Armed Services submitted the following prints and reports during the 88th Congress.

Cuban Military Buildup, Investigation of the Preparedness Program. Committee Print, May 9, 1963.

The Senate Committee on Commerce submitted the following prints and reports during the 88th Congress.

The Growing Strength of the Soviet Merchant Fleet. Committee Print, July 10, 1964.

The Senate Committee on Government Operations submitted the following prints and reports during the 88th Congress.

Administration of National Security—Basic Issues. Committee Print, January 18, 1963.

Staffing Procedures and Problems in Communist China. Committee Print, May 15, 1963.

Staffing Procedures and Problems in the Soviet Union. Committee Print, May 15, 1963.

Administration of National Security—the Secretary of State. Committee Print, January 20, 1964.

Administration of National Security—the American Ambassador. Committee Print, July 20, 1964.

The Senate Committee on the Judiciary submitted the following prints and reports during the 88th Congress.

Communist International Youth and Student Apparatus. Committee Print, April 18, 1963.

Ghana Students in the United States Oppose U.S. Aid to Nkrumah. Committee Print, August 29, 1963; January 11, 1964.

Resolution and Pertinent Data Relative to Security in the Department of State. Committee Print, 1963.

Soviet Political Agreements and Results. Revised to January 1, 1964. Third Revision, Volume I. Committee Print, January 1, 1964.

Chinese and Russian Communists Compete for Foreign Support. Committee Print, August 20, 1964.

Church and State under Communism. Vol. I—U.S.S.R. Committee Print, November 10, 1964 (part 1).

Communist Infiltration in Latin American Educational Systems. Committee Print, December 15, 1964.

The Many Crises of the Soviet Economy—A Symposium. Committee Print, 1964.

The Words of American Statesmen who Negotiated with Soviet Representatives Since 1959 (Vol. II). Committee Print, 1964.

*Eighty-ninth Congress*

The Senate Committee on Foreign Relations submitted the following prints and reports during the 89th Congress.

Persecution of Persons by Soviet Russia. S. Rept. 190, May 14, 1965.

Report of Yugoslavia 1964. Committee Print, July 1965.

Report by the Committee on Intelligence Operations. S. Rept. 1371, July 14, 1966.

The Senate Committee on Government Operations submitted the following prints and reports during the 89th Congress.

Conduct of National Security: Initial Memorandum—Committee Print, April 26, 1965; Selected Readings—Committee Print, May 3, 1965.

The Warsaw Pact—Its Role in Soviet Bloc Affairs. Committee Print, May 11, 1966.

The Senate Committee on the Judiciary submitted the following prints and reports during the 89th Congress.

China—Morgenthau Diary. Committee Print, February 5, 1965.

Aliens in the United States. Committee Print, May 3, 1965.

Rebellion in Russia's Europe; Fact and Fiction. Committee Print, July 31, 1965.

Anti-Vietnam Agitation and the Teach-in Movement, the Problem of Communist Infiltration and Exploitation. Committee Print, October 13, 1965.

Internal Security and Subversion, Principal State Laws and Cases. Committee Print, October 19, 1965.

Church and State Under Communism. Volume II-IX. Committee Print, 1965.

The Soviet Empire—A Study in Discrimination and Abuse of Power. Committee Print, 1965.

Techniques of Soviet Propaganda (Revised). Committee Print, 1965.

Organization of American States—Combined Reports on Communist Subversion. Committee Print, 1965.

Communist Party, U.S.A., Statement by J. Edgar Hoover, Director, Federal Bureau of Investigation, Concerning the 18th National Convention, June 22-26. Committee Print, 1966.

A Study of the Anatomy of Communist Takeovers. Committee Print, 1966.

Communist Youth Program. Committee Print, 1966.

Laws Relating to Wiretapping and Eavesdropping. Committee Print, 1966.

Study of the Communist Party and Coalition Governments in the Soviet Union and Eastern European Countries. Committee Print, 1966.

#### *Nintietth Congress*

The Senate Committee on Commerce submitted the following prints and reports during the 90th Congress.

The Soviet Drive for Maritime Power. Committee Print, December 1967.

The Senate Committee on Foreign Relations submitted the following prints and reports during the 90th Congress.

Warsaw, Moscow, Belgrade, and Prague; Study Commission to East of the Elbe. Committee Print, January 23, 1967.

Study Mission to Berlin (East), Bulgarian Rumania, Hungary, and Czechoslovakia. Committee Print, February 23, 1967.

China and the War. Committee Print, March 29, 1968.

Czechoslovakia—Report on 1968 Study Mission by Senator Claiborne Pell. Committee Print, July 1968.

Czechoslovakia—Confrontation and Crises. Committee Print, September 1968.

The Senate Committee on Government Operations submitted the following prints and reports during the 90th Congress.

Leonid Brezhnev — Speech on the "Soviet View of NATO," April 24, 1967.

The Senate Committee on the Judiciary submitted the following prints and reports during the 90th Congress.

Morgenthau Diary—Germany, Vols. I and II. Committee Print, November 20, 1967.

State Department Security 1964–1965 (Parts 1–4). Committee Print, December 15, 1967.

Communist Party, U.S.A.—Study of Soviet Subversion within the United States. Committee Print, 1967.

Internal Security Act and Laws: Cumulative Index to Published Hearings and Reports. Second Supplement (1961–1966). Committee Print, 1967.

Internal Security Laws—Legislative Recommendations to Improve. Committee Print, January 23, 1968.

The New Left. Committee Print, October 9, 1968.

The Joint Committee on Atomic Energy submitted the following prints and reports during the 90th Congress.

Chinese Communist Nuclear Weapons Progress: Impact on United States National Security. Committee Print, July 1967.

### *Ninety-first Congress*

The Senate Committee on Armed Services submitted the following prints and reports during the 91st Congress.

National Security Act of 1947, as amended through December 31, 1969. Committee Print, 1970.

The Senate Committee on Foreign Relations submitted the following prints and reports during the 91st Congress.

Czechoslovakia, NATO, and the Paris Negotiations—Postscript to Report of Senator Mike Mansfield, September 1968. Committee Print, 1969.

Intelligence and the ABM. Committee Print, January 23, 1969.

Security Agreements and Commitments Abroad. Committee Print, December 21, 1970.

The Senate Committee on Government Operations submitted the following prints and reports during the 91st Congress.

National Security Council—White House Announcement of Structure, Roles, and Staff. Committee Print, February 7, 1969.

Czechoslovakia—Brezhnev Doctrine, implications of, Committee Print, 1969.

Red China—Peking's Approach to Negotiation. Committee Print, 1969.

National Security Council—Comment By Henry A. Kissinger. Committee Print, March 3, 1970.

Shortcomings in the American Strategy in Negotiations with Communist Powers. Committee Print, July 2, 1970.

Communist Doctrine and Soviet Diplomacy—International Negotiations: Some Observations. Committee Print, 1970.

The Senate Committee on the Judiciary submitted the following prints and reports during the 91st Congress.

Internal Security Act of 1969. Committee Print, January 22, 1969.

Czechoslovakia—Ferment and Dissent—An Analysis of Events Leading up to Soviet Invasion. Committee Print, 1969.

Warsaw Insurrection. Committee Print, 1969.

A Clue to the Catastrophe of China: The Amerasia Papers. Vols. I and II. Committee Print, January 26, 1970.

World Communism—Soviet Efforts to Reestablish Control, 1967–1969. Committee Print, November 19, 1970.

Castro's Broken Pledges. Committee Print, 1970.

Human Cost of Soviet Communism. Committee Print, 1970.

#### *Ninety-second Congress*

The Senate Committee on Aeronautical and Space Sciences submitted the following prints and reports during the 92d Congress.

Soviet Space Program, 1971 (supplement to corresponding report covering the period 1966–1970). Committee Print, April 1972.

Soviet Space Program, 1960–1970; Goals and Purposes, Organization, Resources, etc. S. Doc. 92-51.

The Senate Committee on Armed Services submitted the following prints and reports during the 92d Congress.

Investigation into the Electronic Battlefield Program. Committee Print, 1971.

Middle East and American Security Policy; Report of Henry M. Jackson. Committee Print, December 1970.

The Senate Committee on Foreign Relations submitted the following prints and reports during the 92d Congress.

Interview with Kosygin; Report by Frank Church. Committee Print, October 1970.

Security Classification as Problem in Congressional Role in Foreign Policy. Committee Print, December 1971.

United States and Communist China in 1949 and 1950; Staff Study on the Question of Rapprochement and Recognition. Committee Print, January 1973.

The Senate Committee on Government Operations submitted the following prints and reports during the 92d Congress.

International Negotiations—Chinese Comment on Soviet Foreign Policy. Committee Print, 1972.

The Senate Committee on the Judiciary submitted the following prints and reports during the 92d Congress.

Human Cost of Soviet Communism. S. Doc. 92-36, July 16, 1971.

Emergency Detention Act Repeal. S. Rept. 92-304, July 26, 1971.

Human Cost of Communism in China (by Richard L. Walker) ; Prepared at the request of Thomas J. Dodd. Committee Print, 1971.

World Communism, 1964-1969; Selected Bibliography, Vol. 2, Committee Print, 1971.

Report of Subcommittee to Investigate Administration of the International Security Act and Other Internal Security Laws for the Fiscal Year ending February 29, 1972. Committee Print, March 1972.

Army Surveillance of Civilians; Documentary Analysis by Staff. Committee Print, 1972.

Communist Global Subversion and American Security. Volume 1—Attempted Communist Subversion of Africa through Nkrumah's Ghana. Committee Print, 1972.

Communist Treatment of Prisoners of War; Historical Survey. Committee Print, 1972.

Detente and World Revolutionary Process; Analysis of Current Soviet Revolutionary Aims. Committee Print, 1972.

Human Cost of Communism in Vietnam; Compendium. Committee Print, 1972.

The Senate Committee on Labor and Public Welfare submitted the following prints and reports during the 92d Congress.

Alcoholism Among Military Personnel; Report of the Comptroller General. Committee Print, 1971.





## *Part V*

# HEARINGS HELD BY COMMITTEES OF CONGRESS INVESTIGATING SUBVERSIVE ACTIVITIES, 1930-60 <sup>76</sup>

### *Seventy-first Congress*

Special Committee To Investigate Communist Propaganda in United States. House of Representatives (Fish committee). Investigation of Communist propaganda.

#### Part 1:

Volume 1. Hearings before Special Committee To Investigate Communist Activities in United States of House of Representatives. 71st Congress, 2d session, pursuant to H. Res. 220, for investigation of Communist propaganda in United States. June 9 and 13, 1930. [These hearings were held in Washington, D.C.]

Volume 2. ——— June 18 and 19, 1930. [The hearing of June 18, 1930, was held in Washington, D.C.]

Volume 3. ——— June 18 and 19, 1930. [These hearings were held in Washington, D.C.]

Volume 4. ——— November 10, 24, 25, and December 5, 1930; Washington, D.C., 1930.

Volume 5. Hearings before Special Committee To Investigate Communist Activities in United States of House of Representatives. 71st Congress, 3d session, pursuant to H. Res. 220, for investigation of Communist propaganda in United States. December 15, 18, 1930. 1931. [These hearings were held in Washington, D.C.]

Part 2: [Confidential hearings of committee; for members of committee only.]

#### Part 3:

Volume 1. Hearings before Special Committee To Investigate Communist Activities in United States of House of

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<sup>76</sup> Although the systematic study of subversive activities in our country did not begin until the 1930's, the reader will find a number of extremely illuminating and historic interrogations in the following hearings held during the previous decade:

Committee on the Judiciary, United States Senate. Brewing and Liquor Interests and German and Bolshevik propaganda. Report and hearings of the Subcommittee on the Judiciary, United States Senate, submitted pursuant to S. Res. 307 and 439, 65th Cong., relating to charges made against the United States Brewers' Association and allied interests. September 27, 1918-March 10, 1919. (The hearings and report of the Overman Committee were published as S. Doc. No. 62, 66th Cong., 1st sess., in 3 volumes.)

Committee on Foreign Relations, United States Senate. Russian Propaganda, hearings before subcommittee pursuant to S. Res. 263. Directing the Foreign Relations Committee to Investigate Status and Activities of Ludwig C. A. K. Martens, Claiming to be Representative of Russian Socialistic Soviet Republic, 1920.

Committee on Foreign Relations, United States Senate. Relations With Russia, hearings, 66th Cong., 3d sess., on S.J. Res. 164 (January 26, 1921).

Committee on Foreign Relations, United States Senate. Recognition of Russia, hearings, 68th Cong., 1st sess., pursuant to S. Res. 50 (January 21-23, 1924).

Representatives, 71st Congress, 2d session, pursuant to H. Res. 220, for investigation of Communist propaganda in United States, July 15-23, 1930: New York, N.Y. 1930.

Volume 2. Hearings before Special Committee To Investigate Communist Activities in United States of House of Representatives, 71st Congress, 2d session, pursuant to H. Res. 220, for investigation of Communist propaganda in United States, June 17, 1930. [This hearing was held in Washington, D.C.]

Volume 3. ——— July 18-24, 1930: New York, N.Y., 1930.

Volume 4. ——— September 26 and 27, 1930: New York, N.Y., 1930.

Volume 5. ——— November 7, 1930: Boston, Mass., 1930.

Part 4:

Volume 1. ——— July 25 and 26, 1930: Detroit, Mich. 1930.

Volume 2. ——— July 28-29, 1930: Chicago, Ill. 1930.

Volume 3. ——— September 29, 1930: Chicago, Ill. 1930.

Part 5:

Volume 1. ——— October 3, 1930: Seattle, Wash.; Oct. 4, 1930; Portland, Oreg. 1930.

Volume 2. ——— October 6-7, 1930. San Francisco, Calif. 1930.

Volume 3. ——— October 8 and 9, 1930: Los Angeles, Calif. 1930.

Volume 4. ——— October 8 and 9, 1930: Los Angeles, Calif. 1930.

Part 6:

Volume 1. ——— November 13, 1930: Chattanooga, Tenn.; November 14, 1930: Birmingham, Ala.; November 15, 1930: Atlanta, Ga.; November 17, 1930: New Orleans, La.; November 18, 1930: Memphis, Tenn. 1930.

*Seventy-second Congress*

Special Committee on Un-American Activities, House of Representatives (McCormack-Dickstein Committee).

Investigation of Nazi propaganda activities and investigation of certain other propaganda activities, extracts from public hearings, 73d Congress, 2d session, at Washington, D.C., December 29, 1934; statement of Walter S. Steele. [This statement relates to Communist propaganda.]

Investigation of Nazi propaganda activities and investigation of certain other propaganda activities, public hearings, 73d Congress, 2d session, at Washington, D.C., December 29, 1934.

——— Public hearings, 73d Congress, 2d session, at Washington, D.C., June 5-7, 1934.

——— Public hearings before subcommittee, 73d Congress, 2d session, at New York City, N.Y., July 9-12, 1934.

——— Public hearings, 73d Congress, 2d session, at Los Angeles, Calif., August 7, 1934.

——— Public hearings, 73d Congress, 2d session, at New York City, N.Y., October 16 and 17, 1934.

——— Public statement, 73d Congress, 2d session, released to press representatives by John W. McCormack and Samuel Dickstein who were sitting as subcommittee, released in New York City, N.Y., November 24, 1934.

——— Public hearings, 73d Congress, 2d session at New York City, N.Y., November 30, December 5, 1934.

——— Public hearings, 73d Congress, 2d session, at Washington, D.C., December 17 and 18, 1934.

——— Public hearings, 73d Congress, 2d session, at Washington, D.C., December 29, 1934. 2 parts. [Part 1 includes testimony received by subcommittee during executive hearings held at New York City; part 2 consists of testimony received by subcommittee during executive hearings held at New York City, Los Angeles, and Chicago.]

*Seventy-fifth to Seventy-eighth Congresses*

Special Committee on Un-American Activities, House of Representatives (Dies Committee).

Investigation of Un-American propaganda activities in the United States. Hearings. 75th–78th Congresses, on H. Res. 282.

Volume 1. August 12–23, 1938 (Washington, D.C.).

Volume 2. September 15–17, 1938, New York; September 28–30, October 4–6, 1938, Washington, D.C.; October 11–13, 1938, Detroit, Mich.; October 17–22, Washington, D.C.

Volume 3. October 24–27, November 4–6, 14–17, 19, 21, 1938, Washington, D.C.

Volume 4. November 19, 22, 23, 28, December 1, 5–9, 14, 1938, Washington, D.C.

Volume 4. (Supplement.) December 15, 1938.

Volume 5. May 18, 22–24, 31, June 1, 1939, at Washington, D.C.

Volume 6. August 16–18, 21–24, 28, 29, 1939, at Washington, D.C.

Volume 7. September 5–9, 11–13, 1939, at Washington, D.C.

Volume 8. September 18–20, 22, 23, 25, 27, 1939, at Washington, D.C.

Volume 9. September 28–30, October 5–7, 9, 11, 13, 14, 1939, at Washington, D.C.

Volume 10. October 16–21, 23–25, 28, 1939, at Washington, D.C.

Volume 11. October 28, 30, 31, November 1–3, 27, 29, 30, December 1–3, 1939, Washington, D.C.

Volume 12. February 7, 8, 10, March 25, 28, 29, April 2–4, 1940, Washington, D.C.

Volume 13. April 11, 12, 19, 23–25, May 6, 8, 9, 21, 1940. Washington, D.C.

Volume 14. August 29, October 1, 2, 4, 1940; May 21, 22, 26, 27, 29, June 10, 12, August 11, 1941. Washington, D.C.

Volume 15. June 8, 9, 10, 11, 12, 15, 16, 17, 18, July 1, 2, 3, 6, 7, 1943. Los Angeles, Calif., and Washington, D.C.

Volume 16. November 29, 30, December 1, 6, 7, 8, 9, 26, 1943, Washington, D.C.

Volume 17. September 27, 28, 29, October 3, 4, 5, 1944, Washington, D.C.

Special Committee on Un-American Activities, House of Representatives.

Investigation of Un-American propaganda activities in the United States, hearings. 76th Congress, 3d session—78th Congress, 1st session, on H. Res. 282. September 20, 1939–April 19, 1943.

Volumes 1–7. (These are executive hearings and were held in Washington, D.C., New Orleans, La., Chicago, Ill., Detroit, Mich., Miami Beach, Fla., New York City, Austin, Tex., Beaumont, Tex., Chattanooga, Tenn., Houston, Tex., Orange, Tex., Los Angeles, Calif., San Francisco, Calif., Kansas City, Mo., Newark, N.J., and St. Louis, Mo.)

Committee on Appropriations, House of Representatives. Goodwin B. Watson, William E. Dodd, Jr., and Robert Morss Lovett. Hearings before the special subcommittee of the Committee on Appropriations, House of Representatives, 78th Congress, 1st session, acting under House Resolution No. 105 on the fitness for continuance in Federal employment of Goodwin B. Watson and William F. Dodd, Jr., employees of the Federal Communications Commission, and Robert Morss Lovett, an employee of the Department of the Interior. April 9, 1943. (A report, H. Rept. 448, 78th Cong., 1st sess., was filed.)

### *Seventy-ninth Congress*

Committee on Un-American Activities, House of Representatives. Investigation of Un-American propaganda activities in the United States (Office of Price Administration). Hearings, 79th Congress, 1st session, on H. Res. 5. June 20, 21, 27, 1945.

——— Investigation of Un-American propaganda activities in the United States (Communist Party). Hearings, 79th Congress, 1st session, on H. Res. 5. September 26, 27, October 17, 18, 19, 1945.

——— Investigation of Un-American propaganda activities in the United States (Gerald L. K. Smith). Hearings, 79th Congress, 2d session, on H. Res. 5. January 30, 1946.

——— Investigation of Un-American propaganda activities in the United States (Executive Board Joint Anti-Fascist Refugee Committee). Hearings, 79th Congress, 2d session, on H. Res. 5. April 4, 1946.

——— Investigation of Un-American propaganda activities in the United States (Louis F. Budenz). Hearings, 79th Congress, 2d session, on H. Res. 5. November 22, 1946.

### *Eightieth Congress*

Committee on Appropriations, House of Representatives. Department of State appropriation bill for 1949. Hearings before the



subcommittee of the Committee on Appropriations, House of Representatives, 80th Congress, 2d session, on the Department of State appropriation bill for 1949. January 26–February 5, 1948. (These hearings contain the testimony on the security phase of the State Department and the employment of individuals that were considered poor risks from the security angle.) (A report, H. Rept. 1433, was filed February 27, 1948, to accompany the State-Justice, Commerce, and the Judiciary appropriation bill, H.R. 5607.)

Committee on Education and Labor, House of Representatives. Investigation of Communist infiltration into the fur industry. Hearings, 80th Congress, 2d session, pursuant to H. Res. 111. September 8, 9, 10, 13, 14, 15, and 16, 1948.

—— Investigation of Communist influence in the Bucyrus-Erie strike. Hearings, 80th Congress, 2d session, pursuant to H. Res. 111. Hearings held at Evansville, Ind., September 10, 11, and 18, 1948.

—— Investigation of communism in New York City distributive trades. Hearings, 80th Congress, 2d session, pursuant to H. Res. 111. Hearings held at Washington, D.C., June 30, July 1 and 2, August 3, 4, 10, and 11, and at New York, N.Y., July 7, 8, and 9, 1948.

Volume 2. Hearings held at New York, N.Y., October 4, 5, and 6, 1948.

—— Investigation of Communist infiltration of UERMWA. Hearings, 80th Congress, 2d session, pursuant to H. Res. 111. Hearings held at Washington, D.C., September 2, 28, and 29; Schenectady, N.Y., September 30 and October 1; and at New York, N.Y., October 6, 1948.

Committee on Education and Labor, House of Representatives. Communist infiltration of maritime and fisheries unions. Hearings, 80th Congress, 2d session, pursuant to H. Res. 111. Hearings held at Nome, Alaska, October 15; Anchorage, Alaska, October 18; Juneau, Alaska, October 19; and San Francisco, Calif., October 22, 1948.

—— Investigation of teachers union, local No. 555, UPWA-CIO. Hearings, 80th Congress, 2d session, pursuant to H. Res. 111. Hearings held at New York, N.Y., September 27, 28, 29, 30, October 1 and 19, 1948.

Committee on Expenditures in the Executive Departments, House of Representatives. State Department. Hearings before a subcommittee on the Committee on Expenditures in the Executive Departments, 80th Congress, 2d session. March 10 and 12, 1948.

Committee on Expenditures in the Executive Departments, United States Senate. Export policy and loyalty. Hearings, 80th Congress, 2d session, pursuant to S. Res. 189.

Part 1. (Testimony of Elizabeth T. Bentley.) July 30, 1948.

Part 2. (Testimony of William W. Remington.) July 30, 31; August 2, 3, 4, 5, 6, 1948.

- Committee on the Judiciary, House of Representatives. Control of subversive activities. Hearings, 80th Congress, 2d session, on H.R. 5852, an act to protect the United States against Un-American and subversive activities. May 27, 28, 29, and 31, 1948.
- Committee on Un-American Activities, House of Representatives. Investigation of Un-American propaganda activities in the United States (Regarding Gerhart Eisler). Hearings, 80th Congress, 1st session. (February 6, 1947.)
- Investigation of Un-American propaganda activities in the United States (Regarding Eugene Dennis). Hearings, 80th Congress, 1st session. April 9, 1947.
- Investigation of Un-American propaganda activities in the United States. Hearings, 80th Congress, 1st session, on H.R. 1884 and H.R. 2122, bills to curb or outlaw the Communist Party of the United States. March 24, 25, 26, 27, and 28, 1947. Portions of above reprinted as:
- Part 1, Testimony of Hon. William C. Bullitt. March 24, 1947.
- Part 2, Testimony of J. Edgar Hoover, Director, Federal Bureau of Investigation. March 26, 1947.
- Investigation of Un-American propaganda activities in the United States (Regarding Leon Josephson and Samuel Liptzen). Hearings, 80th Congress, 1st session. March 5 and 21, 1947.
- Committee on Un-American Activities, House of Representatives. Testimony of Victor A. Kravchenko. Hearings, 80th Congress, 1st session, on H.R. 1884 and H.R. 2122, bills to curb or outlaw the Communist Party of the United States. July 22, 1947.
- Testimony of Walter S. Steele regarding Communist activities in the United States. Hearings, 80th Congress, 1st session, on H.R. 1884 and H.R. 2122, bills to curb or outlaw the Communist Party in the United States. July 21, 1947.
- Hearings regarding Communism in labor unions in the United States. Hearings, 80th Congress, 1st session. February 27; July 23, 24, and 25, 1947.
- Hearings regarding Hanns Eisler. Hearings, 80th Congress, 1st session. September 24, 25, and 26, 1947.
- Hearings regarding the Communist infiltration of the motion-picture industry. Hearings, 80th Congress, 1st session. October 20, 21, 22, 23, 24, 27, 28, 29, and 30, 1947.
- Hearings on proposed legislation to curb or control the Communist Party of the United States. Hearings, 80th Congress, 2d session, on H.R. 4422 and H.R. 4581. February 5, 6, 9, 10, 11, 19, and 20, 1948.
- Excerpts from hearings regarding investigation of Communist activities in connection with the atom bomb. Hearings, 80th Congress, 2d session. September 9, 14, and 16, 1948.
- Hearings regarding Communist espionage in the United States Government. Hearings, 80th Congress, 2d session. July 31, August 3, 4, 5, 7, 9, 10, 11, 12, 13, 16, 17, 18, 20, 24, 25, 26, 27, 30, September 8 and 9, 1948.
- Part 2. December 7, 8, 9, 10, 14, 1948.

*Eighty-first Congress*

Committee on Expenditures in the Executive Departments, United States Senate. Employment of homosexuals and other sex perverts in Government. Interim report submitted to the committee on Expenditures in the Executive Departments by its Subcommittee on Investigations pursuant to S. Res. 280, 81st Congress. December 15, 1950. (S. Doc. No. 241, 81st Cong., 2d sess.)

Committee on the Judiciary, United States Senate. Communist activities among aliens and national groups. Hearings before the Subcommittee on Immigration and Naturalization, 81st Congress, 1st session, on S. 1832.

Part 1, May 10, 11, 12, 13, 16, June 1, 8, 9, 18, July 15, 16, 27, 28, August 10, 11, 13 1949.

Part 2. September 7, 8, 9, 13, 14, 15, 28, and 29, 1949.

Part 3. Appendices I to VIII.

Committee on Un-American Activities, House of Representatives. Documentary testimony of Gen. Izyador Modelski, former military attaché of the Polish Embassy, Washington, D.C. Hearings, 81st Congress, 1st session. March 31 and April 1, 1949.

——— Soviet espionage activities in connection with jet propulsion and aircraft. Hearings, 81st Congress, 1st session. June 6, 1949.

——— Hearings regarding Steve Nelson. Hearings, 81st Congress, 1st session. June 8, 1949.

——— Hearings regarding Toma Babin. Hearings, 81st Congress, 1st session. May 27 and July 6, 1949.

——— Testimony of Paul Crouch. Hearings, 81st Congress, 1st session. May 6, 1949.

——— Testimony of Philip O. Keeney and Mary Jane Keeney and statement regarding their background. Hearings, 81st Congress, 1st session. May 24, 25, June 9, 1949.

——— Hearings regarding Communist infiltration of radiation laboratory and atomic bomb project at the University of California, Berkeley, Calif. Hearings, 81st Congress, 1st session. Volume 1, April 22, 26, May 25, June 10 and 14, 1949.

Volume 2. (Identification of Scientist X). August 26, 1949, July 1, September 10, 1948, August 14, September 14 and 27, 1949.

Volume 3. December 20, 21, and 22, 1950.

——— Hearings regarding Clarence Hiskey including testimony of Paul Crouch. Hearings, 81st Congress, 1st session. May 24, 1949.

——— Hearings regarding Communist infiltration of minority groups.

Part 1. July 13, 14, and 18, 1949.

Part 2. July 14, 1949.

Part 3. September 1, 1950.

Hearings regarding Communist infiltration of labor unions.

Part 1. Local 601, United Electrical, Radio, and Machine Workers of America, CIO, Pittsburgh, Pa. August 9, 10, and 11, 1949.

Part 2. Security measures relating to officials of the UERMWA-CIO. December 5 and 6, 1949.

Part 3. August 29 and 30, 1950.

- Hearings regarding Communism in the District of Columbia. Hearings, 81st Congress, 1st session.  
Part 1. June 28, 29, July 6, 12, and 28, 1949.  
Part 2. December 6, 11, 12, and 13, 1950.
- Testimony of James Sterling Murray and Edward Tiers Manning (Regarding Clarence Hiskey and Arthur Adams). Hearings, 81st Congress, 1st session. August 14 and October 5, 1949.
- Hearings regarding shipment of atomic material to the Soviet Union during World War II. Hearings, 82d Congress, 1st and 2d sessions. December 5 and 7, 1949; January 23, 24, 25, and 26, and March 2, 3, and 7, 1950.
- Exposé of the Communist Party of Western Pennsylvania, based on the testimony of Matthew Cvetic. Hearings, 82d Congress, 2d session. February 21, 22, and 23, and March 13, 14, and 24, 1950.  
Part 2. March 24 and 25, 1950.  
Part 3. June 22, September 28, and October 13 and 21, 1950.
- Hearings regarding Communist activities in the Territory of Hawaii. Hearings, 81st Congress, 2d session.  
Part 1. April 10, 11, and 12, 1950.  
Part 2. April 13, 14, and 15, 1950.  
Part 3. April 17, 18, and 19, 1950.
- Hearings regarding communism in the United States Government. Hearings, 81st Congress, 2d session.  
Part 1. April 20, 21, 25, 29, May 4, 5, and 6, 1950; July 30 and August 7, 1948; and June 8, 1950.  
Part 2. August 28 and 31, September 1 and 15, 1950.
- Committee on Un-American Activities, House of Representatives. Hearings on legislation to outlaw certain Un-American and subversive activities. Hearings, 81st Congress, 2d session, on H.R. 3903 and H.R. 7595. March 21, 22, 23, and 28, 1950.
- Testimony of Philip A. Bart (general manager of Freedom of the Press, publishers of the Daily Worker, official organ of the Communist Party) and Marcel Scherer (Coordinator, New York Labor Conference for Peace, and formerly district representative of district 4, United Electrical, Radio, and Machine Workers of America, CIO). Hearings, 81st Congress, 2d session. June 21, 1950.
- Hearings regarding Communist activities in the Cincinnati, Ohio area. Hearings, 81st Congress, 2d session.  
Part 1. July 12, 13, 14, and 15, August 8, 1950.
- Testimony of Edward G. Robinson. Hearings, 81st Congress, 2d session. October 27 and December 21, 1950.
- American aspects of assassination of Leon Trotsky. Hearings, 81st Congress, 2d session. July 26, August 30, October 18 and 19, and December 4, 1950.
- Hearings regarding Communist espionage. Hearings, 81st Congress, 1st and 2d sessions. November 8, December 2, 1949, February 27, and March 1, 1950.
- Testimony of Hazel Scott Powell. Hearings, 81st Congress, 2d session. September 22, 1950.



*Eighty-second Congress*

Committee on the Judiciary, House of Representatives. Investigation of the Department of Justice. Hearings before the Special Subcommittee to Investigate the Department of Justice, Committee on the Judiciary, House of Representatives, 82d Congress, 2d session, on H. Res. 95. (The hearings of December 29 and 30, 1952, concern a New York grand jury in the Southern Judicial District of New York, which was discharged on December 2, 1952, after hearing witnesses and handing up a presentment concerning Communist infiltration of the United Nations.)

Committee on the Judiciary, Subcommittee on Internal Security, United States Senate. Institute of Pacific Relations. Hearings, 82d Congress, 1st and 2d sessions, pursuant to S. Res. 7.

Part 1. July 25, 26, 31, August 2 and 7, 1951.

Part 2. August 9, 14, 16, 20, 22, and 23, 1951.

Part 3. September 14, 18, 19, 20, and 25, 1951.

Part 4. September 26, 28, October 1, 5, 6, and 10, 1951.

Part 5. October 12, 17, 18, and 19, 1951.

Part 6. January 24, 25, 26, and 30, 1952.

Part 7. January 31, February 1 and 2, 1952.

Part 7-A. Appendix II.

Part 8. January 29, February 6, 8, 11, 12, 14, 15, 18, 19, 20, 21, 1952.

Part 9. February 26, 27, 28, 29, March 1 and 3, 1952.

Part 10. March 4, 5, 6, 7, 10, 14, and 21, 1952.

Part 11. March 10, 12, 13, 19, 21, 25, and 27, 1952.

Part 12. March 28, 29, 31 and April 1, 1952.

Part 13. April 2, 4, 5, 7, 8, May 15, 16, and 29, 1952.

Part 14. May 2 and June 20, 1952.

Part 15. Composite index to hearings and report.

—— Subversive infiltration in the telegraph industry. Hearings, 82d Congress, 1st session. May 14, 15, 16, June 5, 6, 12, and 14, 1951.

—— Subversive infiltration in the telegraph industry. Supplemental hearing, 82d Congress, 2d session. January 22, 1952.

—— Subversive infiltration of radio, television, and the entertainment industry. Hearings, 82d Congress, 1st and 2d sessions.

Part 1. April 27, 28, May 25, June 7, October 22, 1951; and April 1, 1952.

Part 2. March 20, 26, April 23, and May 20, 1952.

—— Communist propaganda activities in the United States. Hearings, 82d Congress, 1st session. July 11, August 17, September 5, 6, 11, and 21, 1951.

—— Subversive control of the United Public Workers of America. Hearings, 82d Congress, 1st and 2d sessions.

Part 1. July 27, August 9, 23, 25, 29, September 28, October 5, 10, and December 14, 1951.

Part 2. April 12, 13, and May 11, 1952.

—— Unauthorized travel of subversives behind the Iron Curtain on United States passports. Hearings, 82d Congress, 1st session. August 1, 8, 13, 15, September 12 and 26, 1951.



- Subversive influence in the Dining Car and Railroad Food Workers Union. Hearings, 82d Congress, 1st session. July 30, August 6, 10, 20, September 10, 14, and 25, 1951.
- Espionage activities of personnel attached to embassies and consulates under Soviet domination in the United States. Hearings, 82d Congress, 1st and 2d sessions. July 9, 1951, February 5 and 7, 1952.
- Subversive control of Distributive, Processing, and Office Workers of America. Hearings, 82d Congress, 1st and 2d sessions. August 23, 29, October 25, 26, 1951, February 11, 13, 14, 15, 19, 20, 21, and March 7, 1952.
- Communist tactics in controlling youth organizations. Hearings, 82d Congress, 1st and 2d sessions. April 12 and June 12, 1951, January 16, February 27, 28, 29, March 5, 24, 27, 1952.
- Subversive influence in the United Electrical, Radio, and Machine Workers of America. Hearings, 82d Congress, 2d session. April 17, 18, May 29 and June 26, 1952.
- Communist domination of union officials in vital defense industry—International Union of Mine, Mill, and Smelter Workers. Hearings, 82d Congress, 2d session. April 17, 18, May 29 and June 26, 1952.
- Subversive influence in the educational process. Hearings, 82d Congress, 2d session. September 8, 9, 10, 23, 24, 25, and October 13, 1953.
- Activities of United States citizens employed by the United Nations. Hearings, 82d Congress, 2d session. October 13, 14, 15, 23, 24, November 11, 12, December 1, 2, 10, 11, and 17, 1952.
- Committee on Un-American Activities, House of Representatives. Hearings regarding Communist Activities in the Territory of Hawaii. Part 4 (Testimony of Jack H. Kawano). Hearings, 82d Congress, 1st session. July 6, 1951.
- Communist infiltration of Hollywood motion-picture industry. Hearings, 82d Congress, 1st session.
  - Part 1. March 8 and 21, April 10–13, 1951.
  - Part 2. April 17, 23–25, May 16–18, 1951.
  - Part 3. May 22–25, June 25 and 26, 1951.
  - Part 4. September 17–19, 1951.
  - Part 5. September 20, 21, 24, and 25, 1951.
  - Part 6. May 10, September 10, 11, 12, 1951.
  - Part 7. January 24, 28, February 5, March 20, April 10 and 30, 1952.
  - Part 8. May 19, 20, and 21, 1952.
  - Part 9. August 19 and September 29, 1952.
  - Part 10. November 12 and 13, 1952.
- Hearings relating to Communist activities in the defense area of Baltimore.
  - Part 1. (Based on the testimony of Mary Stalcup Markward.) Hearings, 82d Congress, 1st session. June 19–21, 26–28, July 11 and 13, 1951.
  - Part 2. (Maryland Committee for peace and Baltimore County Committee for peace.) June 28, July 10, 12, and 13, 1951.

Part 3. June 19, 20, 26-28, July 10-13, 1951.

- Exposé of Communist activities in the State of Massachusetts. (Based on the testimony of Herbert A. Philbrick.) Hearings, 82d Congress, 1st session. July 23 and 24, October 10, 11, 1951.
- Hearings on American aspects of the Richard Sorge Spy Case. (Based on testimony of Mitsusada Yoshikawa and Maj. Gen. Charles A. Willoughby.) Hearings, 82d Congress, 1st session. August 9, 22, and 23, 1951.
- Hearings regarding Communist activities among farm groups. Hearings, 82d Congress, 1st session. February 28 and March 9, 1951.
- Communist tactics among veterans' groups. (Testimony of John T. Pace.) Hearings, 82d Congress, 1st session. July 13, 1951.
- Testimony of Oliver Edmund Clubb. Hearings, 82d Congress, 1st session. March 14, August 20 and 23, 1951.
- The role of the Communist press in the Communist conspiracy. Hearings, 82d Congress, 1st session. January 9, 10, 15-17, 1952.
- Communist activities among professional groups in the Los Angeles area. Hearings, 82d Congress, 2d session.
  - Part 1. January 21-26 and April 9, 1952.
  - Part 2. May 22, July 8, 1952.
  - Part 3. September 30, October 1 and 2, 1952.
  - Part 4. October 3, 6, and 7, 1952.
- Communism in the Detroit Area. Hearings, 82d Congress, 2d session.
  - Part 1. February 25-29, 1952.
  - Part 2. March 10-12, April 29 and 30, 1952.
- Communist activities among youth groups. (Based on testimony of Harvey M. Matusow.) Hearings, 82d Congress, 2d session. February 6 and 7, 1952.
- Methods of Communist infiltration in the United States Government. Hearings, 82d Congress, 2d session. May 6, June 10, 23, 1952.
- Testimony of Lynne L. Prout. Hearings, 82d Congress, 2d session. February 14, 1952.
- Communist activities in the Chicago Area. Part 1. (United Electrical, Radio and Machine Workers of America; and Farm Equipment Workers Council, UERMWA.) Hearings, 82d Congress, 2d session.
  - Part 1. September 2 and 3, 1952.
  - Part 2. (Local 347, United Packinghouse Workers of America, CIO.) September 4 and 5, 1952.
- Testimony of Dr. Edward U. Condon. Hearings, 82d Congress, 2d session. September 5, 1952.
- Testimony of Gen. Walter Bedell Smith. Hearings, 82d Congress, 2d session. October 13, 1952.
- Communist activities in the Philadelphia area. Hearings, 82d Congress, 2d session. October 13-16, 1952.

*Eighty-third Congress*

Committee on Government Operations, Permanent Subcommittee on Investigations, United States Senate. State Department information program—Voice of America. Hearings, 83d Congress, 1st session, pursuant to S. Res. 40.

Part 1. February 16 and 17, 1953.

Part 2. February 18 and 19, 1953.

Part 3. February 20 and 28, 1953.

Part 4. March 2, 1953.

Part 5. March 3, 1953.

Part 6. March 4, 1953.

Part 7. March 5 and 6, 1953.

Part 8. March 12, 1953.

Part 9. March 13, 16, 19, 1953.

Part 10. (Composite index to hearings.) April 1, 1953.

——— State Department information program—information centers (overseas libraries). Hearings, 83d Congress, 1st session, pursuant to S. Res. 40.

Part 1. March 24, 25, and 26, 1953.

Part 2. April 1 and 2, 1953.

Part 3. April 29 and May 5, 1953.

Part 4. April 24, 1953.

Part 5. May 5, 1953.

Part 6. May 6 and 14, 1953.

Part 7. July 1, 2, and 7, 1953.

Part 8. July 14, 1953.

Part 9. Composite index to hearings. August 5, 1953.

——— State Department—student-teacher exchange program. Hearings, 83d Congress, 1st session, pursuant to S. Res. 40. June 10 and 19, 1953.

——— State Department—file survey. Hearings, 83d Congress, 1st session, pursuant to S. Res. 40.

Part 1. February 4, 5, and 6, 1953.

Part 2. February 16 and 20, 1953.

——— Security—Government Printing Office. Hearings, 83d Congress, 1st session, pursuant to S. Res. 40.

Part 1. August 17 and 18, 1953.

Part 2. August 19, 20, 22, and 29, 1953.

——— Communist Party activities, western Pennsylvania. Hearings, 83d Congress, 1st session, pursuant to S. Res. 40. June 18, 1953.

——— Communist infiltration among Army civilian workers. Hearings, 83d Congress, 1st session, pursuant to S. Res. 40. September 8 and 11, 1953.

——— Security—United Nations. Hearings, 83d Congress, 1st session, pursuant to S. Res. 40.

Part 1. September 17 and 18, 1953.

Part 2. September 15, 1953.

——— Transfer of occupational currency plates—espionage phase. Hearings, 83d Congress, 1st session, pursuant to S. Res. 40. October 20 and 21, 1953.

——— Army Signal Corps—subversion and espionage. Hearings, 83d Congress, 1st and 2d sessions, pursuant to S. Res. 40.

Part 1. October 22, November 24, 25, and December 8, 1953.

Part 2. December 9, 1953.

Part 3. December 10 and 11, 1953.

Part 4. December 14, 1953.

Part 5. December 15, 1953.

Part 6. December 16, 1953.

Part 7. December 17, 1953.

Part 8. February 23 and 24, 1954.

Part 9. March 1 and 5, 1954.

Part 10. March 10 and 11, 1954.

——— Control of trade with Soviet bloc. Hearings, 83d Congress, 1st session, pursuant to S. Res. 40.

Part 1. March 30 and 31, 1953.

Part 2. May 4 and 20, 1953.

——— Communist infiltration in the Army. Hearings, 83d Congress, 1st and 2d sessions, pursuant to S. Res. 40.

Part 1. September 28, 1953.

Part 2. September 21, 1953.

Part 3. January 30, 1954. February 18, and March 4, 1954.

Part 4. November 15, 1954.

——— Subversion and espionage in defense establishments and industry. Hearings, 83d Congress, 1st and 2d sessions, pursuant to S. Res. 40.

Part 1. November 19, 1953, January 15 and 16, 1954.

Part 2. February 19 and 20, 1954.

Part 3. July 19 and August 12, 1954.

Committee on the Judiciary, Subcommittee on Internal Security, United States Senate. Subversive influence in the educational process. Hearings, 83d Congress, 1st session.

Part 1. September 8-10, 23-25, and October 13, 1952.

Part 2. February 10, 24, March 3, 1953.

Part 3. March 10, 1953.

Part 4. March 11, 1953.

Part 5. March 19, 24, and 25, 1953.

Part 6. March 26, 27, 30, April 1, 1953.

Part 7. April 7 and 8, 1953.

Part 8. April 23, 24, 25, May 5, 1953.

Part 9. May 7 and 8, 1953.

Part 10. May 13, 19, and 21, 1953.

Part 11. May 28, June 2 and 4, 1953.

Part 12. June 8, 9, and 11, 1953.

Part 13. June 17, 1953.

——— Activities of United States citizens employed by the United Nations. Hearings, 83d Congress, 1st session. February 19 and April 27, 1953.

Part 3. September 24, 1953.

Part 4. September 25, 1953.

Part 5. October 2, 29, and December 22, 1953.

Part 6. March 10, 1954.

——— Interlocking subversion in Government Departments. Hearings, 83d Congress, 1st session.

Part 1. April 10, 1953.

Part 2. April 14, June 2, 1953.

Part 3. April 1, 1953.

Part 4. April 21, 22, 1953.

Part 5. May 1, 1953.

Part 6. May 6, 1953.

Part 7. May 12, 1953.

Part 8. May 19, 1953.

Part 9. May 21, 1953.

Part 10. May 26, 1953.

Part 11. June 4 and 11, 1953.

Part 12. June 12, 16, 18, and 23, 1953.

Part 13. June 25, 1953.

Part 14. Appendix I.

Part 15. October 28, 29, November 12, 17, 18, 23, and December 2, 1953.

Part 16. November 12, 17, 18, 23, and December 2, 3, and 16, 1953.

Part 17. December 22, 1953.

Part 18. January 8, March 2, and April 8, 1954.

Part 19. March 25 and April 6, 1954.

Part 20. July 6, 7, August 5 and 6, 1954.

Part 21. August 10, 1954.

Part 22. August 25, 1954.

Part 23. July 27, September 27 and 28, 1954.

Part 24. September 29, 1954.

Part 25. November 23, 1954.

Part 26. December 29, 1954.

Part 27. December 13, 1954.

—— Communist underground printing facilities and illegal propaganda. Hearings, 83d Congress, 1st session. March 6, 13, 31, April 10, May 28, June 11, and July 11, 1953.

—— Strategy and tactics of world communism. Hearings, 83d Congress, 2d session.

Part 1. May 18, 27, 1954.

Part 2. June 10, 15, and 17, 1954.

Part 3. July 1 and 8, 1954.

Part 4. July 15 and 22, 1954.

Part 5. July 29 and September 22, 1954.

—— Communism in labor unions. Hearings, 83d Congress, 2d session. January 26 and February 9, 1954.

—— Communist propaganda. Hearings, 83d Congress, 2d session.

Part 1. June 22, 1954.

Part 2. October 7, 1954.

Part 3. October 14, 1954.

—— Subversive influence in certain labor organizations. Hearings, 83d Congress, 1st and 2d sessions, on S. 23, S. 1254, and S. 1606. December 21, 1953; January 14, 15, 22, February 18, 19, and 26, March 3, 4, and 25, 1954.

—— Subversive influence in certain industrial plants (Eastern Pennsylvania). Hearings, 83d Congress, 2d session. October 13 and 28, 1954.

—— Subversive influence in the United Electrical, Radio, and Machine Workers of America, Pittsburgh and Erie, Pa. (Inves-



tigation relative to legislation designed to curb Communist penetration and domination of labor organizations.) Hearings, 83d Congress, 1st session. November 9, 10, and 12, 1953.

Select Committee To Investigate the Incorporation of the Baltic States into the U.S.S.R., House of Representatives (now known as the House Select Committee on Communist Aggression). Baltic States investigation. Hearings, 83d Congress, 1st session.

Part 1. November 30, December 1, 3, 4, 5, 7, 8, 10, 11, 1953.

Special Committee To Investigate Tax Exempt Foundations, House of Representatives. Tax-exempt foundations. Hearings, 83d Congress, 2d session, pursuant to H. Res. 217.

Part 1. May 10, 11, 18, 19, 20, 24, 25, 26, June 2, 3, 4, 8, 9, 15, 16, 17, 18, and July 2 and 9, 1954.

Committee on Un-American Activities, House of Representatives. Communist methods of infiltration (education). Hearings, 83d Congress, 1st session.

Part 1. February 25-27, 1953.

Part 2. March 12, 13, 17, 18, April 14 and 16, 1953.

Part 3. April 21 and 22, 1953.

Part 4. April 23 and 27, 1953.

Part 5. April 29, May 19, 26-28, 1953.

Part 6. June 22, 24, 29, and July 1, 1953.

Part 7. May 15, 1953.

Part 8. April 21, June 8, 1953; and April 12, 1954.

Part 9. June 28 and 29, 1954.

—— Investigation of Communist activities in the Los Angeles area. Hearings, 83d Congress, 1st session.

Part 1. March 23-25, 1953.

Part 2. March 26-28, 1953.

Part 3. March 30, 31, 1953.

Part 4. April 7 and 8, 1953.

Part 5. December 2, 1952; February 17, March 12 and 27, and April 7 and 13, 1953.

Part 6. March 21, 1953; and June 2, 1953.

Part 7. September 4, 1953.

Part 8. November 23, 1953.

—— Investigation of Communist activities in the New York City area. Hearings, 83d Congress, 1st session.

Part 1. May 4, 1953.

Part 2. May 5, 1953.

Part 3. May 6, 1953.

Part 4. May 7, 1953.

Part 5. July 6, 1953.

Part 6. July 7, 1953.

Part 7. (Testimony of Manning Johnson.) July 8, 1953.

Part 8. July 13 and 14, 1953.

—— Investigation of Communist activities in the Albany, N.Y., area. Hearings, 83d Congress, 1st session:

Part 1. July 13, 14, 1953.

Part 2. July 15 and 16, 1953.

Part 3. April 7, 1954.

Part 4. April 8, 1954.

Part 5. April 8, 1954.

Part 6. April 9, 1954.

—— Communist methods of infiltration (Government-labor). Hearings, 83d Congress, 1st and 2d sessions.

Part 1. April 17, May 14, and June 9, 1953.

Part 2. July 20, 1953.

Part 3. (Based on testimony of James McNamara.) September 15, 1953.

Part 4. January 13 and December 15, 1954.

—— Soviet schedule for war—1955. Executive hearings, 83d Congress, 1st session. May 13 and 14, 1953.

—— Investigation of Communist activities in the Columbus, Ohio, area. Hearings, 83d Congress, 1st session. June 17 and 18, 1953.

—— Franciszek Jarecki—Flight to Freedom. Hearings, 83d Congress, 1st session. July 1, 1953.

—— Testimony of Stephen H. Fritchman. Hearings, 83d Congress, 1st session. September 12, 1951, released July 31, 1953.

—— Testimony of Dr. Marek Stanislaw Korowicz. Hearings, 83d Congress, 1st session. September 24, 1953.

—— Investigation of Communist activities in the Philadelphia area. Hearings, 83d Congress, 1st and 2d sessions.

Part 1. November 16, 1953.

Part 2. November 17, 18, 1953.

Part 3. February 16, 1954.

Part 4. February 17, 1954.

Part 5. July 30, 1954.

—— Investigation of Communist activities in the San Francisco area. Hearings, 83d Congress, 1st session.

Part 1. December 1, 1953.

Part 2. December 2, 1953.

Part 3. December 3, 1953.

Part 4. December 4, 1953.

Part 5. December 5, 1953.

—— Communist methods of infiltration (entertainment). Hearings, 83d Congress, 2d session.

Part 1. January 13 and 18, 1954.

Part 2. December 14, 1954.

—— Investigation of Communist activities in the State of California. Hearings, 83d Congress, 2d session.

Part 1. February 24, 1954.

Part 2. February 1, March 1, and April 12, 1954.

Part 3. April 12, 14, and 23, 1954.

Part 4. April 19, 1954.

Part 5. April 19, 1954.

Part 6. April 20, 1954.

Part 7. April 20, 1954.

Part 8. April 21, 1954.

Part 9. April 21, 1954.

Part 10. September 11, 1953, and April 22, 1954.

Part 11. September 17, 1954.

—— Investigation of Communist activities in the Chicago area. Hearings, 83d Congress, 2d session.

Part 1. March 15, 1954.

Part 2. March 16, 1954.

Part 3. April 29, 1954.

—— Investigation of Communist activities in the Baltimore area. Hearings, 83d Congress, 2d session.

Part 1. May 18, 1954.

Part 2. March 25, 1954.

Part 3. March 25 and 26, 1954.

—— Communism in the District of Columbia-Maryland area (Testimony of Mary Stalcup Markward). Hearings, 83d Congress, 2d session. June 11, 1951. (Printed, June 23, 1954.)

—— Investigation of Communist activities in the State of Michigan. Hearings, 83d Congress, 2d session.

Part 1. (Detroit—Education) April 30, May 3, 4, 1954.

Part 2. (Detroit—Labor) April 28, 29, 1954.

Part 3. (Detroit—Labor) May 4, 1954.

Part 4. (Detroit—Labor) May 5, 1954.

Part 5. (Detroit—Labor) May 7, 1954.

Part 6. (Lansing) May 10, 1954.

Part 7. (Lansing) June 8, 1953, and May 11, 1954.

Part 8. (Flint) April 30 and May 12, 1954.

Part 9. (Flint) May 13, 1954.

Part 10. (Flint) May 14, 1954.

Part 11. November 17, 1954.

Part 12. November 18 and 19, 1954.

—— Communist activities among youth groups. (Based on testimony of Harvey M. Matusow.) Hearings, 83d Congress, 2d session.

Part 2. July 12, 1954.

—— Hearings regarding Communism in the District of Columbia. Hearings, 83d Congress, 2d session.

Part 3. July 14, 15, 1954.

—— Testimony of Bishop G. Bromley Oxnam. Hearings, 83d Congress, 1st session. July 21, 1953.

—— Hearings regarding Jack R. McMichael. Hearings, 83d Congress, 1st session. July 30 and 31, 1953.

—— Investigation of Communist influence in the field of publications (March of Labor). Hearings, 83d Congress, 2d session. July 8, 15, 1954.

—— Investigation of Communist activities in the Pacific Northwest area. Hearings, 83d Congress, 2d session.

Part 1. October 3, 1952; March 16, May 28, June 2, 9, 1954.

Part 2. (Seattle) June 14 and 15, 1954.

Part 3. (Seattle) June 16, 17, 18, 19, 1954.

Part 4. (Seattle) June 14, 15, 1954.

Part 5. (Seattle) June 16, 1954.

Part 6. (Seattle) June 17, 1954.

Part 7. (Seattle) June 18, 1954.

Part 8. (Seattle) June 19, 1954.

Part 9. (Portland) June 18, 1954.

Part 10. (Portland) June 14–19, 1954.

Part 11. Appendix. June 14–19, 1954.

- Investigation of Communist activities in the Dayton, Ohio, area. Hearings, 83d Congress, 2d session.
  - Part 1. September 13, 1954.
  - Part 2. September 14, 1954.
  - Part 3. September 15, 1954.
  - Part 4. November 17, 18, and 19, 1954.
- Investigation of Communist activities in the State of Florida. Hearings, 83d Congress, 2d session.
  - Part 1. November 29 and 30, 1954.
  - Part 2. December 1, 1954.

### *Eighty-fourth Congress*

- Committee on Foreign Relations, United States Senate. Status of nations under Communist control. Hearings on S. Res. 116, 84th Congress, 1st session, June 21, 1955. Committee on Government Operations, Permanent Subcommittee on Investigations, United States Senate. Army personnel actions relating to Irving Peress. Hearings, 84th Congress, 1st session, pursuant to S. Res. 18.
  - Part 1. March 15, 1955.
- Communist infiltration in defense plants. Hearings, 84th Congress, 1st session.
  - Part 1. May 10, 1955.
- Communist ownership of G.I. Schools. Hearings, 84th Congress, 2d session.
  - Parts 1 and 2. January 18–February 6, 1956.
- Communist treatment of prisoners. Hearings, 84th Congress, 2d session. June 19–27, 1956.
- Committee on Government Operations, Subcommittee on Reorganization, United States Senate. S.J. Res. 21, a Joint Resolution To Establish a Commission on Government Security. Hearings, 84th Congress, 1st session. March 8–11, 14–18, 1955.
- Committee on the Judiciary, Subcommittee on Internal Security, United States Senate. Strategy and tactics of world communism—the significance of the Matusow case. Hearings, 84th Congress, pursuant to S. Res. 58.
  - Parts 1–12. February 21–May 9, 1955.
  - Part 13 (Communist battle plan). April 28, 1955.
  - Parts 14–16 (espionage recruiting). June 28–July 14, 1955.
  - Part 17 (New York activities). January 4–6, 1956.
- Interlocking subversion in Government Departments (the Morgenthau Diaries). Hearings, 84th Congress, 1st session.
  - Part 28. June 1, 1955.
- Scope of Soviet activities in the United States. Hearings, 84th Congress.
  - Parts 1–23. February 8–May 10, 1956.
  - Parts 21–41. May 16–December 6, 1956.
  - Parts 42–62. May 15, 1956; July 23, 1957.
- Committee on Un-American Activities, House of Representatives. Communist political subversion. Hearings, 84th Congress, 2d session.
  - Part 1. November 12–December 14, 1956.
  - Part 2. November 13–December 14, 1956.

- Communist propaganda in the United States. Hearings, 84th Congress, 2d session.  
Parts 1-3. June 18-December 10, 19, 1956.
- Communist propaganda among Korean prisoners of war. Hearings, 84th Congress, 2d session. June 18, 19, 1956.
- Diplomatic personnel, attempts at subversion. Hearings, 84th Congress, 2d session. May 10, 11, 1956.
- Entertainment industry, blacklisting. Hearings, 84th Congress, 2d session.  
Parts 1-3. July 10-18, 1956.
- International communism methods. Hearings, 84th Congress, 2d session. September 10, 11, 1956.
- Investigation of Communist activities. Hearings, 84th Congress:  
Fort Wayne, Indiana, area. February 28, March 1, and April 25, 1955.  
Los Angeles area:  
Parts 1 and 2. June 27-29, 1955.  
Parts 3 and 4. June 30-July 2, 1955.  
Parts 5, 7-10. October 13, 1955-April 20, 1956.  
Part 11. June 6-July 5, 1956.  
Milwaukee, Wisconsin, area. March 28-30, May 3, 1955.  
Newark, New Jersey, area. May 16-19, 1955; supplemental part, July 24, 1957, and September 3-5, 1958.  
New Haven area:  
Parts 1 and 2. September 24-26, 1956.  
New York area:  
Part 1 (testimony of Jean Muir). June 15, 1953, released May 25, 1955.  
Part 2 (youth organizations). March 16, 1955.  
Parts 3, 4. May 3, 4, 1955.  
Part 5. July 25-August 1, 1955.  
Parts 6-8. August 15-October 14, 1955.  
North Carolina. March 12, 14, 1956.  
Ohio area. July 13, 1955.  
Rocky Mountain area:  
Parts 1, 2. May 15-18, 1956.  
St. Louis area:  
Parts 1-4. June 4-8, 1956.  
San Diego area. July 5-6, 1955.  
Seattle area:  
Parts 1-3. March 17-June 2, 1955.  
Youngstown area. November 26, 27, 1956.
- Investigation of Rosenberg Committee To Secure Justice. Hearings, 84th Congress, 1st session.  
Parts 1 and 2. August 2-5, 1955.
- Methods of Communist infiltration in the United States Government. Hearings, 84th Congress.  
Parts 1-5. December 13, 1955; March 1, 1956.  
Part 6. June 20, 28, 1956.
- Passports. Hearings, 84th Congress, 2d session.  
Parts 1-4. May 23-June 23, 1956.



*Eighty-fifth Congress*

- Committee on Foreign Affairs, House of Representatives. Denial of passports to persons knowingly engaged in activities intended to further the international Communist movement. Hearings on H.R. 13760 and similar bills, 85th Congress, 2d session. July 17–August 18, 1958.
- Return of American prisoners of war who have not been accounted for by the Communists. Hearings on H. Con. Res. 140 and similar measures, 85th Congress, 1st session, May 27, 1957.
- Committee on Foreign Affairs, Subcommittee on the Far East and the Pacific, House of Representatives. Denial of passports by Department of State to Correspondents wishing to visit Communist China. Hearings, 85th Congress, 1st session, May 27, 1957.
- Committee on Foreign Affairs, Subcommittee on International Organizations and Movements, House of Representatives. Building a world of free peoples. Hearings, 85th Congress, 1st session. March 1, April 3–29, May 4–20, 1957.
- Committee on the Judiciary, Subcommittee on Internal Security, United States Senate. An American prisoner in Communist East Germany. Hearings, 85th Congress, 2d session. July 15, 1958.
- Communism in labor. Hearings, 85th Congress, 2d session. May 29, 1958.
- Communism in the midsouth. Hearings, 85th Congress, 1st session. October 28, 29, 1957.
- Communist activity in mass communications. Hearings, 85th Congress, 2d session.  
     Part 1. August 12, 1958.  
     Part 2. September 23, 1958.  
     Part 3. December 17, 1958.
- Communist passport frauds. Hearings, 85th Congress, 2d session. July 24, 1958.
- Communist use and abuse in United States passports. Hearings on S. Res. 233, 85th Congress, 2d session.  
     Part 1. July 9, 1958.  
     Part 2. December 15, 1958.
- Espionage, treason, and other subversive activities. Hearings on S. 1254, 85th Congress, 1st session. April 18, 1957.
- Nature of communism in occupied China. Hearings, 85th Congress, 1st session. May 13, 1957.
- Scope of Soviet activities in the United States. Hearings, 85th Congress, 1st session.  
     Parts 48–89. January 15–November 29, 1957.  
     Part 90. U.N. reports and documents on the Hungarian revolt.
- Speech of Nikita Khrushchev. March 27, 1957.
- The 16th Convention of the Communist Party, U.S.A. (Interim report). Hearings, June 13, 1957.
- The Soviet Empire: Prison House of Nations and Races (S. Doc. No. 122). August 18, 1958.
- Committee on Un-American Activities, House of Representatives.

Communist penetration of communications facilities. Hearings, 85th Congress, 1st session.

Part 1. July 17–August 9, 1957.

Part 2. October 9, 1957.

—— Communist propaganda in the United States. Hearings, 85th Congress.

Parts 4–7. February 14–March 27, 1957.

Part 8. October 1, 1957.

Part 9. June 11, 12, 1958.

—— Espionage in the United States Government: Metropolitan Music School, Inc., and related fields. Hearings, 85th Congress, 1st session. April 9, 10, 1957.

—— International Communist propaganda. Hearings, 85th Congress, 1st session. January 30, 1957.

—— Investigation of Communist Activities. Hearings, 85th Congress:

Baltimore area:

Parts 1 and 2. May 7–9, 1957.

Buffalo area:

Parts 1 and 2. October 2–4, 1957.

Gary, Indiana. February 10–11, 1958.

New England area:

Parts 1–3. March 18–21, 1958.

New Haven area:

Part 3. February 26, 27, 1957.

New York City area. May 8–June 19, 1959, and released executive hearing of April 1, 1957.

San Francisco area:

Parts 1, 2. June 18–21, 1957.

The South. July 29–31, 1958.

—— Investigation of Soviet espionage in the United States Government. Hearings, 85th Congress.

Parts 1, 2. October 7–November 20, 1957; February 28, 1956; February 25, 1958.

—— Passports. Hearings, 85th Congress, 1st session.

Part 5. July 26, 1957.

—— The Southern California District of the Communist Party. Structure—objectives—leadership. Hearings, 85th Congress, 2d session.

Part 1. September 2, 3, 1958.

Part 2. September 4, 5, 1958.

### *Eighty-sixth Congress*

Committee on Foreign Relations, United States Senate. Passport legislation. Hearings on S. 2315 and similar measures. 86th Congress, 1st session. July 13, 1959.

Committee on Government Operations, United States Senate. Passport Reorganization Act of 1959. Hearings on S. 2095, 86th Congress, 1st session. August 26, 27, September 1, 1959.

Committee on Foreign Affairs, House of Representatives. Providing standards for the issuance of passports and for other purposes.

- Hearings on H.R. 9069, 86th Congress, 1st session. August 5-19, 1959.
- Committee on the Judiciary, Subcommittee on Internal Security, United States Senate. The effect of Red China communes on the United States (Testimony of Edward Hunter). Hearings, 86th Congress, 1st session. March 24, 1959.
- Communist political propaganda and use of United States mails. Hearing, 86th Congress, 1st session. March 26, 1959.
- Communist controls of religious activities. Hearing, 86th Congress, 1st Session. May 5, 1959.
- Proposed antisubversion legislation. Hearings on S. 3 and similar measures, 86th Congress, 1st session.
- Part 1. April 20-30, May 1, 5, 15, 1959.
- Communist threat to the United States through the Caribbean. Hearings, 86th Congress, 1st session.
- Part 1 (Testimony of Maj. Pedro L. Diaz Lanz). July 14, 1959.
- Part 2 (Testimony of Joseph Zack Kornfeder). August 13, 1959.
- Part 3 (Testimony of Gen. C. P. Cabell, CIA). November 5, 1959.
- Part 4. December 7, 1959.
- Part 5 (Testimony of Hon. Spruille Braden). July 17, 1959.
- Soviet intelligence in Asia (Testimony of Aleksandr Yurievich Kasnakheyev). December 14, 1959.
- Funds for Communist causes. Hearings, 86th Congress, 1st session. February 3, May 13, 15, 1959.
- Freedom Commission and Freedom Academy. Hearings, 86th Congress, 1st session. June 17, 18, 19, 1959.
- Revitalizing of the Communist Party in the Philadelphia Area. Hearings, 86th Congress, 1st session.
- Part 1. October 29 and 30, 1959.
- Part 2. Appendix to hearings of October 29 and 30, 1959.
- Committee on the Judiciary, Subcommittee on Internal Security, United States Senate. Communist threat to the United States through the Caribbean. Hearings, 86th Congress, 2d session.
- Part 6. (Testimony of Edward J. Whitehouse). May 26, 1960.
- Part 7. May 2, 3, 4, 6, 1960.
- Part 8. January 22, 23, 1960.
- Part 8A. May 9, 1960.
- Part 9. August 27, 30, 1960.
- Conditions in the Soviet Union (Further testimony of Aleksandr Y. Kasnacheyev). January 22, 1960.
- Communist leadership "tough guy" takes charge. (Testimony by and about Gus Hall). February 2, 3, 1960.
- Protection of defense communications. April 19, 1960.
- Communist infiltration in the nuclear test ban movement (Testimony of Henry H. Abrams). May 13, 1960.
- Soviet espionage through Poland (Testimony of Pawel Monat). June 13, 1960.
- Testimony of Dr. Linus Pauling. June 21, 1960.

Committee on Un-American Activities, House of Representatives.  
The Kremlin's espionage and terror organizations (Testimony of Peter S. Deriabin). Hearings, 86th Congress, 1st session. March 17, 1959.

—— The Southern California District of the Communist Party. Structure—objectives—leadership. Hearings, 86th Congress, 1st session.

Part 3. February 24, 25, 1959.

—— Current strategy and tactics of Communists in the United States (Greater Pittsburgh Area—Part 1). Hearings, 86th Congress, 1st session. March 10, 1959.

—— Problems of security in industrial establishments holding defense contracts (Greater Pittsburgh Area—Part 2). Hearings, 86th Congress, 1st session. March 11, 1959.

—— Problems arising in cases of denaturalization and deportation of Communists (Greater Pittsburgh Area—Part 3). Hearings, 86th Congress, 1st session. March 12, 1959.

—— Communist infiltration of vital industries and current Communist techniques in the Chicago, Illinois area. Hearings, 86th Congress, 1st session. May 5-7, 1959.

—— Passport security. Hearings, 86th Congress, 1st session.

Part 1 (Testimony of Harry B. Bridges). April 21, 1959.

Part 2. April 22-24, June 5, 1959.

—— The American National Exhibition, Moscow, July 1959. Hearings, 86th Congress, 1st session. July 1, 1959.

—— Communist training operations. Hearings, 86th Congress, 1st session.

Part 1. July 21 and 22, 1959.

—— Testimony of Clinton Edward Jencks. Hearings, 86th Congress, 1st session. July 22, 1959.

—— Testimony of Arnold Johnson, Legislative Director of the Communist Party, U.S.A. Hearings, 86th Congress, 1st session. September 22, 1959.

—— Western section of the Southern California District of the Communist Party.

Part 1. October 20, 1959.

Part 2. October 21, 1959.

Part 3. October 22, 1959.

—— Communist activities among Puerto Ricans in New York and Puerto Rico.

Part 1 (New York City). November 16, 17, 1959.

Part 2 (San Juan, Puerto Rico). November 18, 19, 20, 1959.

Committee on Un-American Activities, House of Representatives.  
Issues presented by air reserve center training manual. Hearings, 86th Congress, 2d session, February 25, 1960.

—— Communist training operations (Communist activities and propaganda among youth groups). Hearings, 86th Congress, 2d session.

Part 2. February 2, 3, 1960.

Part 3. February 4, 5, March 2, 1960.

—— Communist espionage in the United States (Testimony of Frantisek Tisler). May 10, 1960.

- Testimony of Anthony Krehmarek. May 26, 1960.
- Communist activities among seamen and on waterfront facilities. Hearings, 86th Congress, 2d session.  
Part 1. June 6, 7, 8, and 23, 1960.
- Communist penetration of radio facilities. Hearings, 86th Congress, 2d session. August 23, 24, 1960.
- Testimony of Captain Nikolai Fedorovitch Artamonov (former Soviet naval officer). September 14, 1960.

### *Eighty-seventh Congress*

- Committee on Armed Services, House of Representatives. Central Intelligence Agency Amendments. Hearings, 87th Congress, 2d session, on H.R. 12923. August 28, 1962.
- Committee on Foreign Affairs, House of Representatives. Captive European Nations. Hearings, 87th Congress, 2d session. September 19, 1962.
- Committee on Foreign Relations, United States Senate. Situation in Cuba. Hearings, 87th Congress, 2d session, on S.J. Res. 226, 227; S. Con. Res. 92; S. Res. 388, 389, and 390. September 17, 1962.
- Committee on Government Operations, House of Representatives. Hoffa, James R., and continued underworld control of N.Y. Local 239. Hearings, 87th Congress, 1st session. January 10–25, 1961.
- Closedown and Current Status of the United States Nickel Plant at Nicargo, Cuba. Hearings, 87th Congress, 1st session. August 29, 30, 1961.
- Commingling of United States and Communist Foreign Aid. Hearings, 87th Congress, 2d session. May 10, 11, 15, 16, 19, 1962.
- Committee on Government Operations, United States Senate. The Budget and the Policy Process. Hearings, 87th Congress, 1st session. July 24, 25, 31; August 1, 1961.
- State, Defense, and the National Security Council. Hearings, 87th Congress, 1st session. August 1, 7, 17, 24, 1961.
- American Guild of Variety Artists. Hearings, 87th Congress, 2d session, on S. Res. 250.  
Part 1. June 12, 13, 14, 15, 19, 1962.  
Part 2. June 20, 21, 25, 26, 1962.
- Committee on Interstate and Foreign Commerce, House of Representatives. Trade with Cuba. Hearings, 87th Congress, 1st session, on H.R. 8465, 8866. August 29 and September 1, 1961.
- Committee on the Judiciary, United States Senate. Communist and Workers' Parties Manifesto adopted November–December, 1960. Interpretation and analysis. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session. January 26 and February 2, 1961. (See S. Doc. 47).
- Export of Ball Bearing Machines to Russia. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session.  
Part 1. December 21, 1960.  
Part 2. March 1, 1961.
- Cuban Aftermath—Red Seeds Blow South. Hearings before



the Subcommittee on Internal Security, 87th Congress, 1st session. March 16, 1961.

—— Communist Political Propaganda and use of the United States Mails. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session. (Part 1, 86th Congress)

Part 2. April 3, 1961.

—— Communist appeal to youth aided by new organizations. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session. April 25, 1961.

—— Fair Play for Cuba Committee. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session.

Part 1. April 29, May 5, October 10, 1960; January 10, 1961.

Part 2. April 25, May 16, 1961.

Part 3. June 15, 1961.

Part 4. June 12, 13, 1961.

—— Communist Forgeries. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session. June 2, 1961.

—— Communist threat to the United States through the Caribbean. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session. (Parts 1-10, 86th Congress)

Part 11. June 5, 1961.

Part 12. June 12, 1961.

Part 13. March 29, April 26, June 1, July 27, 1961.

—— Safeguard Communications Facilities. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session, on S. 1990. June 7, 1961.

—— Plot against free world police (an exposé of crowd handling methods); testimony of Lymon B. Kirkpatrick. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session. June 13, 1971.

—— Analysis of the Khrushchev Speech of January 6, 1961. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session. June 16, 1961. (See S. Doc. 46)

—— The new drive against the anti-Communist program. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session. July 11, 1961.

—— Relationship between Teamsters Union and Mine, Mill, and Smelter Workers. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st session. October 13, 1961.

—— Export of strategic materials to the U.S.S.R. and other Soviet Bloc countries. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st and 2d sessions.

Part 1. October 23, 1961.

Part 2. October 24, 1961.

Part 3. October 26, 1962.

Part 4. October 26, 1962.

—— Visa procedures by Department of State. Hearings before the Subcommittee on Internal Security, 87th Congress, 2d session. January 9, 15, 17, 18, 22, February 21, May 16, 1962.

—— Wiretapping—the Attorney General's program—1962. Hearings, 87th Congress, 2d session, on S. 2813 and 1495. March 29, April 4-6, May 10, 17, 24, 1962.

- Wiretapping and Eavesdropping Legislation. Hearings, 87th Congress, 2d session, on S. 1086, 1221, 1495, 1822. May 9, 10, 11, 12, 1962.
- State Department Security. Hearings before the Subcommittee on Internal Security, 87th Congress, 1st and 2d sessions.
  - Part 1. The William Wieland Case. February 15, March 15, 1961; March 8, 12, April 12, 1962.
  - Part 2. The Office of Security. November 16, 1961; January 9, March 8, 15, April 12, June 7, 1962.
  - Part 3. The New Passport Regulations. May 16, June 7, 12, 19, 1962.
  - Part 4. Testimony of Elmer Hipsley, Otto Otepka, John Leaky, Roger Jones, Scot McLeod, Andreas Lowenfield. March 8, 15, April 4, 12, June 7, 1962.
  - Part 5. Testimony of William Wieland. January 9, February 8, 1961; February 2, 1962.
- Yugoslav Interference with a U.S. book publisher. Hearings before the Subcommittee on Internal Security, 87th Congress, 2d session. June 27, 1962.
- Soviet aid in East-West trade. Hearings before the Subcommittee on Internal Security, 87th Congress, 2d session. July 3, 1962.
- Attempts of pro-Castro forces to pervert the American press; testimony of Carlos Todd. Hearings before the Subcommittee on Internal Security, 87th Congress, 2d session. July 19, 1962.
- Testimony of Alexander Orlov, September 28, 1955. Hearings before the Subcommittee on Internal Security, 87th Congress, 2d session. November 15, 1962.
- Testimony of defector from Communist China. Hearings before the Subcommittee on Internal Security, 87th Congress, 2d session. November 29, 1962.
- Is U.S. money aiding another Communist state? Testimony of Kofi Abrefi Busia. Hearings before the Subcommittee on Internal Security, 87th Congress, 2d session. December 3, 1962.
- Testimony of Frances Yuan and Col. Ve-Shen Hsiang, July 10, 1952. Hearings before the Subcommittee on Internal Security, 87th Congress. Approved for release January 2, 1963.
- Committee on Un-American Activities, House of Representatives. Hearings relating to H.R. 4700, to amend section 2 of the Subversive Activities Control Act of 1950, as amended (The Fund for Social Analysis.) Hearings, 87th Congress, 1st session. May 31–August 16, 1961.
- Hearings relating to revision of H.R. 9120 and H.R. 5751, to amend the Subversive Activities Control Act of 1950. Hearings, 87th Congress, 1st session. September 13, 1961.
- Structure and organization of the Communist Party of the United States. Hearings, 87th Congress, 1st session.
  - Part 1. November 20–22, 1961.
  - Part 2. November 21–22, 1961 (appendix).
- Hearings, 87th Congress, 2d session, relating to H.R. 9753 to amend Sections 3 and 5(b) of the Internal Security Act of 1950. February 7, 1962.

- Industrial security program, and bills to give the Secretary of Defense authority to safeguard defense contractors against Communist activities. Hearings, 87th Congress, 2d session, on H.R. 10175, 11363, 11414. March 15, 1962.
- Communist activities—Southern district of the Communist Party, "United Front" techniques. Hearings 87th Congress, 2d session. April 24–27, 1962.
- Communist youth activities. Hearings, 87th Congress, 2d session. April 25, 27, October 4, 1962.
- Communist and Trotskyist activity within the Greater Los Angeles Chapter of the Fair Play for Cuba Committee. Hearings, 87th Congress, 2d session. April 26–27, 1962.
- Communist outlets for the distribution of Soviet propaganda in the United States. Hearings, 87th Congress, 2d session.  
Part 1. May 9, 10, 17, July 12, 1962.  
Part 2. May 17 and July 11, 1962.
- Communist propaganda and the truth about conditions in Soviet Russia. Hearings, 87th Congress, 2d session. May 22, 1962.
- Intellectual Freedom—Red China style. Hearings, 87th Congress, 2d session. May 24–25, 1962.
- Communist activities in the Cleveland, Ohio, area. Hearings, 87th Congress, 2d session.  
Part 1. June 4, 5, 1962.  
Part 2. June 5, 6, 7, 1962.
- The Communist Party's Cold War against Congressional investigation of subversion. Hearings, 87th Congress, 2d session. October 10, 1962.
- United States Communist Party assistance to foreign Communist governments. Hearings, 87th Congress, 2d session.  
Part 1. November 14, 1962.  
Part 2. November 14, 15, 1962.
- Investigation to determine Communist influence upon the Peace movement of the Women Strike for Peace, and certain other groups. Hearings, 87th Congress, 2d session. December 11–13, 1962.
- Manipulation of public opinion by organizations under concealed control of the Communist Party. 87th Congress. H. Rept. 1282.

### *Eighty-eighth Congress*

- Committee on Armed Services. House of Representatives. Russian trawler traffic in United States territorial waters. Hearings, 88th Congress, 1st session. July 9–10, 1963.
- To amend the Central Intelligence Act. Hearings, 88th Congress, 1st session, on H.R. 7216. July 23, 1963.
- Committee on Banking and Currency. House of Representatives. Communist-controlled countries—Export Control Act of 1949. Hearings, 88th Congress, 1st session. June 5, 1963.
- Prohibit government guarantees of credit to Communist countries. Hearings, 88th Congress, 1st session, on S. 2310. November 20–22, 1963.

Committee on Foreign Affairs. House of Representatives. Castro-Communist subversion in the Western Hemisphere. Hearings, 88th Congress, 1st session. February 18, 20, 21, 26, 27, 28, March 4-6, 1963.

—— Recent developments in the Soviet Bloc. Hearings, 88th Congress, 2d session.

Part 1. January 27-30, 1964.

Part 2. February 18, 19, 25, March 4, 10, 1964.

Committee on Foreign Relations, United States Senate. Foreign Agents Registration Act. Hearings 88th Congress, 1st session on S. Res. 362. Parts I and II, February 4-April 18, 1963.

—— Activities of nondiplomatic representatives of foreign principals in the United States. Hearings, 88th Congress, 1st session.

Part 1. February 4 and 6, 1963.

Part 2. April 18, 1963.

Part 3. March 28, 1963

Part 4. March 13 and June 20, 1963.

Part 5. March 29, 1963.

Part 6. June 14, 1963.

Part 7. March 25, 1963.

Part 8. April 12 and May 6, 1963.

Part 9. May 23, 1963.

Part 10. July 10, 1963.

Part 11. March 8, 1963.

Part 12. August 1, 1963.

Part 13. May 14, 1963.

—— Freedom Academy—counteraction to world Communist conspiracy. Hearings, 88th Congress, 1st session on S. 414. April 4-May 1, 1963.

—— Amend the Foreign Agents Registration Act. Hearings, 88th Congress, 1st session on S. 2136. November 19-21, 1963.

Committee on Government Operations, United States Senate. Administration of national security. Hearings, 88th Congress, 1st and 2d sessions.

Part 1. March 11, 22, and 25, 1963.

Part 2. June 14, and 17, 1963.

Part 3. July 24 and September 18, 1963.

Part 4. November 21, 1963.

Part 5. December 11, 1963.

Part 6. December 11, 1963.

Part 7. February 27, 1964.

Part 8. April 8, 1964.

Part 9. June 25, 1964.

Committee on the Judiciary, House of Representatives. Violation of foreign travel restrictions. Hearings, 88th Congress, 1st session. September 9, 1963.

—— Providing authority for protecting heads of foreign states. Hearings, 88th Congress, 2d session, on H.R. 7651. March 12, 1964.

Committee on the Judiciary, United States Senate. Pacifica Foundation. Hearings before the Subcommittee on Internal Security, 88th Congress, 1st session.

Part 1. January 10, 1963.

Part 2. January 10, 1963.

Part 3. January 11 and 25, 1963.

——— Castro's network in the United States (Fair Play for Cuba Committee). Hearings before the Subcommittee on Internal Security, 88th Congress, 1st session.

Part 1. February 14, 1963.

Part 2. July 13 and 14, 1961.

Part 3. April 10, 1962.

Part 4. April 3, 1963.

Part 5. February 8 and March 13, 1963.

Part 6. Testimony of Lyle Stuart. February 8, 1963.

Part 7. Testimony of Sidney Lens. February 15, 1963.

Part 8. Testimony of Walde Frank. March 8, 1963.

——— U.S. personnel security practices. Hearings before the Subcommittee on Internal Security, 88th Congress, 1st session. February 20, 26, March 12, 1963 (Part 1).

——— Relationship between Teamsters Union and Mine, Mill and Smelter Workers—abuse of tax exemptions by subversive labor organizations. Hearings before the Subcommittee on Internal Security, 88th Congress, 1st session. June 4 and September 18, 1962; March 7, 1963 (Part 2).

——— Cuban refugee problem. Hearings before the Subcommittee on Internal Security, 88th Congress, 1st session.

Part 1. May 22 and 23, 1963.

Part 2. October 14, 1963 in Grand Rapids, Michigan.

Part 3. November 9, 1963 in Minneapolis, Minnesota.

——— Testimony of Seymour J. Janow. Hearings before the Subcommittee on Internal Security, 88th Congress, 1st session. July 23, 1963.

——— Documentation of Communist penetration in Latin America. Hearings before the Subcommittee on Internal Security, 88th Congress, 1st session.

Part 1. Testimony of Jules Dubois; October 2, 1963.

Part 2. Appendix I. October 2, 1963.

Part 3. Appendix II. October 2, 1963.

——— State Department security, testimony of David I. Belisle. Hearings before the Subcommittee on Internal Security, 88th Congress, 1st session.

Part 1. November 14, 1963.

Part 2. Testimony of John F. Reilly; November 15, 1963.

Part 3. Testimony of Elmer Dewey Hill; November 18, 1963.

Committee on Post Office and Civil Service, House of Representatives. Exclusion of Communist political propaganda from the U.S. Mails. Hearings, 88th Congress, 1st session. June 19–20, 1963.

——— Protect postal patrons from receipt of obscene and Communist propaganda. Hearings, 88th Congress, 1st and 2d sessions, on H.R. 142.

Part 1. June 25–July 24, 1963.

Part 2. April 15, 1964.

Committee on Un-American Activities, House of Representatives. A



Communist in a "Worker's Paradise"—John Santo's Own Story. Hearings, 88th Congress, 1st session. March 1, 4, 5, 1963.

——— U.S. Communist Party assistance to foreign Communist Governments (Testimony of Maud Russell). Hearings, 88th Congress, 1st session. March 6, 1963.

——— Violations of State Department regulations and pro-Castro propaganda activities in the United States. Hearings, 88th Congress, 1st session.

Part 1. May 6, 7, and 23, 1963, including index.

Part 2. July 1 and 2 and August 5, 1963, including index.

——— U.S. Communist Party assistance to foreign Communist parties (Veterans of the Abraham Lincoln Brigade). Hearings, 88th Congress, 1st session. July 29, 1963.

——— Violations of State Department regulations and pro-Castro propaganda activities in the United States. Hearings, 88th Congress, 1st and 2d sessions.

Part 1. May 6, 7, and 23, 1963, including index.

Part 2. July 1 and 2 and August 5, 1963, including index.

Part 3. September 12 and 13, 1963, including index.

Part 4. October 16 and 18, 1963, including index.

Part 5. September 3, 4, and 28, 1964, including index.

——— Defection of a Russian seaman (Testimony of Vladislav Stepanovich Tarasov). Hearings, 88th Congress, 1st session. September 19, 1963, including index.

——— Hearings relating to H.R. 352, H.R. 1617, H.R. 5368, H.R. 8320, H.R. 8757, H.R. 10036, H.R. 10037, H.R. 10077, and H.R. 11718, providing for creation of a Freedom Commission and Freedom Academy to fight Communist conspiracy.

Part 1. February 18 and 19, 1964 (index in Part 2).

Part 2. February 20, April 7 and 8, and May 19 and 20, 1964 (including index).

——— Communist activities in the Buffalo, N.Y. area. Hearings, 88th Congress, 2d session. April 29 and 30, 1964.

——— Testimony of Rev. James H. Robinson. Hearings, 88th Congress, 2d session. May 5, 1964 (including index).

——— Communist activities in the Minneapolis, Minnesota area. Hearings, 88th Congress, 2d session. June 24-26, 1964 (including index).

### *Eighty-ninth Congress*

Committee on Banking and Currency, House of Representatives. Declare U.S. policy to oppose restrictive trade practices imposed by foreign countries against other countries friendly to the U.S. Hearings, 89th Congress, 1st session on H.R. 627. May 5-21, 1965.

Committee on Foreign Affairs, House of Representatives. Communism in Latin America. Hearings, 89th Congress, 1st session. February 16, 25, March 2, 10, 16, 30, 1965.

——— Sino-Soviet conflict. Hearings, 89th Congress, 1st session, on H. Res. 84. March 10-31, 1965.

——— Antireligious activities in the Soviet Union and in Eastern Europe. Hearings, 89th Congress, 1st session. May 10-12, 1965.

- Conditions in the Baltic states and in other countries of Eastern Europe. Hearings, 89th Congress, 1st session. May 17–18, 1965.
- International Communism in the Western Hemisphere. Hearings, 89th Congress, 1st session on H. Res. 542. August 31–September 1, 1965.
- Committee on Foreign Relations, United States Senate. Foreign Agents Registration Act Amendments. Hearings, 89th Congress, 1st session, on S. 693. February 16, 1965.
- Shipping restrictions on grain sales to Eastern Europe. Hearings, 89th Congress, 1st session. September 17, 27, 1965.
- U.S. policy with respect to Mainland China. Hearings, 89th Congress, 2d session. March 8, 10, 16, 18, 21, 28, 30, 1966.
- Atlantic Union resolutions. Hearings, 89th Congress, 2d session on S. Con. Res. 64 and S. Res. 128. March 23–24, 1966.
- Psychological aspects of international relations. Hearings 89th Congress, 2d session. May 25, 1966.
- United States policy toward Europe (and related matters). Hearings, 89th Congress, 2d session. June 20, 21, 23, 27, 28, 30, July 13, 22, 1966.
- News policies in Vietnam. Hearings, 89th Congress, 2d session. August 17, 31, 1966.
- Committee on Government Operations, United States Senate. Conduct of National Security policy. Hearings, 89th Congress, 1st session.
  - Part 1. May 13, 15, 1965.
  - Part 2. June 16–17, 1965.
  - Part 3. July 27, 1965.
  - Part 4. August 30, 1965.
- The Atlantic Alliance. Hearings, 89th Congress, 2d session.
  - Part 1. April 27, 1966.
  - Part 2. May 5–6, 1966.
  - Part 3. May 19, 1966.
  - Part 4. May 25, 1966.
  - Part 5. June 16, 1966.
  - Part 6. June 21, 1966.
  - Part 7. August 15, 1966.
- Committee on the Judiciary, United States Senate. State Department—Security Investigations, 1963–1965. Hearings before the Subcommittee on Internal Security (not released until the 89th Congress).
  - Pt. 1: William Wieland case updated; Testimonies of Karl D. Ackerman, David I. Belisle, William O. Boswell, William J. Crockett, Frederick G. Dutton, Richard A. Frank, Harry A. Hite, Robert Joseph McCarthy, John R. Norpel, Jr., Otto F. Otepka, John F. Reilly, William Wieland, and J. Walter Yeagley. April 25, 1963–September 6, 1964.
  - Pt. 2: The Otepka Case—I; testimonies of William O. Boswell, William J. Crockett, Richard A. Frank, Otto F. Otepka, John F. Reilly, and Frederick W. Traband. February 21–August 19, 1963; January 28–July 28, 1964; May 4, 1965.
  - Pt. 3: The Otepka Case—II; testimonies of David I. Belisle,

- William O. Boswell, William J. Crockett, Elmer Dewey Hill, Stanley E. Holden, Robert Joseph McCarthy, Otto F. Otepka, George James Pasquale, John F. Reilly, Joseph E. Rosetti, Terence J. Shea, and Frederick W. Traband, Jr. June 9–December 10, 1963; January 23–September 16, 1964; May 4, 1965.
- Pt. 4: The Otepka Case—III; testimonies of Otto F. Otepka, Raymond A. Loughton, Robert J. McCarthy, John F. Reilly. February 21–June 19, 1963; July 29, 1964.
- Pt. 5: The Otepka Case—IV; testimonies of William J. Crockett, Otto F. Otepka, Richard I. Phillips, John F. Reilly, and Dean Rusk. August 6–October 21, 1963; January 28–August 17, 1964; May 4, 1965.
- Pt. 6: The Otepka Case—V; testimonies of David I. Belisle, Robert L. Berry, William O. Boswell, Henri G. Grignon, Harry M. Hite, Robert Joseph McCarthy, Otto F. Otepka, John F. Reilly, Allen S. Whiting. May 21, 1963.
- Pt. 7: The Otepka Case—VI; testimonies of William J. Crockett, Otto F. Otepka. August 17, 1964.
- Pt. 8: The Otepka Case—VII; testimonies of Abram Chayes, William J. Crockett, Harry M. Hite, John R. Norpel, Otto F. Otepka, John F. Reilly, Abba P. Schwartz.
- Pt. 9: Letters August 6, 1963; September 28, 1965.
- Pt. 10: The Otepka Case—VIII; testimonies of William O. Boswell, William J. Crockett, Harris H. Huston, John R. Norpel, Jr., Otto F. Otepka. August 12, 1963–May 4, 1965.
- Pt. 11: The Otepka Case—IX; testimonies of David I. Belisle, William J. Crockett, Harry M. Hite, Henri G. Grignon, Raymond A. Loughton, Otto F. Otepka, John F. Reilly. August 30–August 16, 1963; January 28–September 16, 1964, May 4, 1965.
- Pt. 12: The Otepka Case—X; testimonies of David I. Belisle, Robert L. Berry, William J. Crockett, Thomas Ehrlich, Elmer Dewey Hill, John F. Reilly. November 14–18, 1963; August 17, 1964; January 28–May 4, 1965.
- Pt. 13: The Otepka Case—XI; testimonies of David I. Belisle, William O. Boswell, William J. Crockett, Frederick G. Dutton, Harris H. Huston, Otto F. Otepka, John F. Reilly. March 19, 1963–September 16, 1964.
- Pt. 14: The Otepka Case—XII; testimonies of David I. Belisle, William J. Crockett, Victor H. Dikeos, Elmer Dewey Hill, Stanley E. Holden, Robert J. McCarthy, John F. Reilly. May 21, 1963–May 4, 1965.
- Pt. 15: The Otepka Case—XIII; testimonies of David I. Belisle, William J. Crockett, Otto F. Otepka, John F. Reilly. March 19–August 17, 1963; August 17, 1964; May 4, 1965.
- Pt. 16: The Otepka Case—XIV; testimonies of William J. Crockett, Frederick G. Dutton, Otto F. Otepka, John F. Reilly. March 6–May 22, 1963; July 29, August 29, 1964; May 4, 1965.
- Pt. 17: The Otepka Case—XV; testimonies of Edwin A.

Burkhardt, William J. Crockett, Harry M. Hite, Raymond A. Loughton, John R. Norpel, Jr., Otto F. Otepka, Frederick W. Traband, Jr.

Appendix to Pt. 17 (The Otepka Case—XV). August 12, 1963; January 23–August 13, 1964; May 4, 1965.

Pt. 18: The Otepka Case—XVI; testimonies of Karl D. Ackerman, David I. Belisle, Abram Chayes, William J. Crockett, Frederick G. Dutton, Wilson C. Flake, Richard A. Frank, Col. George W. French, Jr., Henri G. Grignon, Harry M. Hite, Francis G. Knight, John R. Norpel, Jr., Otto F. Otepka, John F. Reilly. February 21–August 16, 1963; January 23–September 16, 1964.

Pt. 19: The Otepka Case—XVII; testimonies of William O. Boswell, William J. Crockett, Col. George W. French, Jr., Henri G. Grignon, Harry M. Hite, Otto F. Otepka, John F. Reilly. May 21–August 16, 1963; January 28–September 16, 1964; May 4, 1965.

Pt. 20: The Otepka Case—XVIII; testimonies of Otto F. Otepka and John F. Reilly. May 22–August 16, 1963.

——— State Department—Security Investigations, 1963–65. Hearings before the Subcommittee on Internal Security relating to the Bureau of Security and Consular Affairs (not released until the 89th Congress.)

Pt. 1: Testimonies of William J. Crockett, Allyn C. Donaldson, Harris H. Huston, Robert D. Johnson, Frances G. Knight, J. Edward Lyerly, Lawson A. Moyer, Jr., Otto F. Otepka, Dean Rusk, Abba P. Schwartz, Charles Shinkwin. June 20–December 12, 1963; January 24–August 19, 1964; May 4, 1965.

Pt. 2: Testimonies of William J. Crockett, Allyn C. Donaldson, Frederick G. Dutton, Robert D. Johnson, Frances G. Knight, Eugene Krizek, Seymour Levenson, J. Edward Lyerly, Charles Mace, Allen B. Moreland, Abba P. Schwartz, Hessel E. Yntema, Jr. June 20–November 20, 1963; January 23–September 16, 1964; May 4, 1965.

Pt. 3: Testimonies of Karl D. Ackerman, Abram Chayes, William J. Crockett, Wilson C. Flake, Richard A. Frank, Robert D. Johnson, Frances G. Knight, J. Edward Lyerly, Charles H. Mace, Dean Rusk, Abba P. Schwartz, J. Walter Yeagley. April 4–December 12, 1963; January 27–September 16, 1964; May 4, 1965.

Pt. 4: Testimonies of Frank L. Auerbach, William J. Crockett, Charles H. Mace, Allen B. Moreland, Otto F. Otepka, John F. Reilly, Abba P. Schwartz, Thomas F. Valenza, Hessel E. Yntema. August 6–December 9, 1963; March 5–August 17, 1964; May 4, 1965.

Pt. 5: Testimonies of William J. Crockett, Allyn C. Donaldson, Robert D. Johnson, Frances G. Knight, Abba P. Schwartz, Thomas F. Valenza. April 10–December 9, 1963; March 5–September 16, 1964; May 4, 1965.

——— Murder International, Inc. murder and kidnapping as an instrument of Soviet policy. Hearings before the Subcommittee on Internal Security, 89th Congress, 1st session. March 26, 1965.

- Communist Youth Program. Hearings before the Subcommittee on Internal Security, 89th Congress, 1st session.
  - Part 1. May 17, 1965.
  - Part 2. May 18, 1965.
  - Part 3. May 18, 1965.
- Communist threat to the United States through the Caribbean. Hearings, 89th Congress, 1st and 2d sessions. (Parts 1-10—86th Congress; Parts 11-13—87th Congress)
  - Part 14. Testimony of Orta Cordova, Lorie y Valls; Juan Isidro Tapia Adames, Elias Wessin y Wessin; Alfonso L. Tarabochia. July 24, 1959; May 31, October 1, 18, 1965; December 9, 16, 1965.
  - Part 15. Testimony of Jose Manuel Santamaria Rodriguez, Mrs. Mercedes Oses, Celio Ramon Carriego, Sr., Mrs. Griselda Noguera Martinez, Professor Gaston Fernandez de la Torriente, Enrique Ovares Herrera. September 13, 15, 1966.
- Red Chinese infiltration into Latin America. Hearings before the Subcommittee on Internal Security, 89th Congress, 1st session. August 4, 1965.
- Prohibiting threatening and abusive communications to members of the Armed Forces and their families. Hearings before the Subcommittee on Internal Security on S. 2351, 89th Congress, 1st session. August 31, 1965.
- Communist Exploitation of religion (testimony of Rev. Richard Wurmbrand). Hearings before the Subcommittee on Internal Security, 89th Congress, 2d session. May 6, 1966.
- Proposed travel controls. Hearings before the Subcommittee on Internal Security, 89th Congress. 2d session on S. 3243. May 17-19, 1966.
- Gaps in internal security laws. Hearings before the Subcommittee on Internal Security, 89th Congress, 2d session.
  - Part 1. June 23, 1966.
  - Part 2. June 24 and 27, 1966.
  - Part 3. June 29, 1966.
  - Part 4. June 30, 1966.
- Testimony of Viola June Cobb (March 30, 1962). Hearings before the Subcommittee on Internal Security released 89th Congress, 2d session.
- Committee on Un-American Activities. House of Representatives. Providing for creation of a Freedom Commission and Freedom Academy. Hearings, 89th Congress, 1st session relating to H.R. 470, H.R. 1033, H.R. 2215, H.R. 2379, H.R. 4389, H.R. 5370, H.R. 5784, and H.R. 6700. March 31, April 1, 28, May 7, 14, 1965.
- Communist activities in the Chicago, Illinois area. Hearings, 89th Congress, 1st session.
  - Part 1. May 25-27, June 22, 1965.
  - Part 2. May 25-27, June 22, 1965.
- Testimony of Juanita Castro Ruz. Hearings, 89th Congress, 1st session June 11, 1965.
- Activities of Ku Klux Klan organizations of the United States, 1965-1966. Hearings, 89th Congress, 1st session. October 19-November 9, 1965. (Parts 1-5)



- Testimony of Wladyslaw Tykocinski. Hearings, 89th Congress, 2d session. April 6, 1966.
- Bills to cure terrorist organizations. Hearings, 89th Congress, 2d session, relating to H.R. 15678, H.R. 15689, H.R. 15744, H.R. 15754, and H.R. 16099. July 20–22, 1966.
- Bills to make punishable assistance to enemies of the U.S. in time of undeclared war. Hearings, 89th Congress, 2d session on H.R. 12047, H.R. 14925, H.R. 46175, H.R. 17140, and H.R. 17194.  
     Part 1. August 16–19, 1966.  
     Part 2. August 19, 22–23, 1966.

### *Ninetieth Congress*

- Committee on Armed Forces, House of Representatives. Inquiry into the capability of the National Guard to cope with civil disturbances. Hearings, 90th Congress, 1st session. August 10, 11, 15, 22–25, October 3, 1967.
- Report of Special Subcommittee to inquire into the capability of the National Guard to cope with civil disturbances. Report, 90th Congress, 1st session. December 18, 1967.
- Committee on Atomic Emergency, Joint. Impact of Chinese Communist nuclear weapons progress on United States national security. 90th Congress, 1st session. July 1967.
- Committee on Commerce, United States Senate. The Soviet drive for maritime power. Committee Print, 90th Congress, 1st session. December 1967.
- Committee on the District of Columbia, House of Representatives. Anti-Riots. Hearings, 90th Congress, 1st session on H.R. 12328, H.R. 12605, H.R. 12721, and H.R. 12557. October 4, 1967.
- Committee on Foreign Affairs, House of Representatives. Communist activities in Latin America, 1967. Hearings, 90th Congress, 1st session. April 25, May 4, 16, 17, 31, June 7, 1967.
- Communist activities in Latin America. Hearings, 90th Congress, 1st session. April 25–June 7, 1967.
- The future United States role in Asia and in the Pacific. Hearings, 90th Congress, 2d session. February 29, March 4, 7, 13, 14, 19, 20, April 4, 1968.
- Air policy in the Carribean Area. Committee Print, 90th Congress, 2d session. December 10, 1968.
- Committee on Foreign Relations, United States Senate. The Communist world in 1967. Hearings, 90th Congress, 1st session. January 30, 1967.
- Asia, the Pacific, and the United States. Hearings, 90th Congress, 1st session. January 31, 1967.
- Consular convention with the Soviet Union. Hearings, 90th Congress, 1st session. January 23, February 3, 17, 1967.
- United States troops in Europe. Hearings, 90th Congress, 1st session on S. Res. 49, 83. April 26, May 3, 1967.
- The nature of revolution. Hearings, 90th Congress, 2d session. February 19, 21, 26, March 7, 1968.
- The Gulf of Tonkin, the 1964 incidents. Hearings, 90th Congress, 2d session.

Part 1. February 20, 1968.

Part 2. December 16, 1968 (Committee Print).

——— Present situation in Vietnam. Hearings, 90th Congress, 2d session. March 20, 1968.

Committee on Government Operations, United States Senate. Riots, civil and criminal disorders. Hearings, 90th Congress, 1st and 2d sessions.

Part 1. Pursuant to Senate Resolution 53, as amended (S. Res. 150), 90th Congress. November 1, 2, 3, and 6, 1967.

Part 2. November 7, 8, 9, 21, and 22, 1967.

Part 3. November 29, 30, and December 4, 1967.

Part 3A. November 30, 1967.

Part 4. December 5, 6, and 7, 1967.

Part 5. March 19 and 20, 1968: S. Res. 216.

Part 6. March 21 and 22, 1968.

Part 7. May 14, 15, and 16, 1968.

Part 8. May 21, 22, 27, and 28, 1968.

Part 9. June 20 and 21, 1968.

Part 10. June 24, 25, 26, 1968.

Part 11. June 28; July 1, 2, 1968.

Part 12. July 3, 9, 10, 1968.

Part 13. September 5; October 10, 11, 1968.

Part 14. October 8, 9, 11, 1968.

——— The Soviet view of NATO: speech by Leonid I. Brezhnev. Committee Print, 90th Congress, 1st session. April 24, 1967.

——— Staff study of major riots and civil disorders, 1965 through July 31, 1968. Committee Print, 90th Congress, 2d session. October 1968.

Committee on the Judiciary, United States Senate. Communist threat to the United States through the Caribbean. Hearings, 90th Congress, 1st and 2d sessions.

Part 16. March 7, 1967. (for prior parts, see prior Congresses)

Part 17. March 7 and 8, 1967.

Part 18. June 28, 1967.

Part 19. November 27, 1968.

——— United Nations headquarters site status of agreement resolutions. Hearings before the Subcommittee on Internal Security, 90th Congress, 1st session. March 15, 1967.

——— Gaps in internal security laws. Hearings before the Subcommittee on Internal Security, 90th Congress, 1st session.

Part 5. May 2, 10, 1967.

Part 6. May 9, 1967.

Part 7. May 10, 24, 1967.

——— Security of the Capitol buildings. Hearings, 90th Congress, 1st session, on S. 2310. September 21, 1967.

——— Legislative recommendations respecting gaps on internal security laws and government personnel security. Committee Print, 90th Congress, 2d session. January 23, 1968.

——— Proposed Internal Security Act of 1968, Hearings before the Subcommittee on Internal Security, 90th Congress, 2d session.

Part 1. S. 2988. February 28, 1968.

- Part 2. March 13, 18, 19, 1968.
- Part 3. March 21, 22, 25, 1968.
- Part 4. S. 2988. March 26; April 1, 1968.
- Part 5. April 10, 11, 1968.
- Part 6. April 18, 1968.
- Part 7. March 25; May 9, 1968.
- Part 8. March 26, 1968.

- Testimony of Jim G. Lucas. Hearings before the Subcommittee on Internal Security, 90th Congress, 2d session. March 14, 1968.
- The New Left. Committee Print, 90th Congress, 2d session. October 9, 1968.
- Aspects of intellectual ferment and dissent in the Soviet Union. Committee Print, 90th Congress.
- Communist Party, U.S.A.—Soviet pawn. Committee Print, 90th Congress.
- Committee on Public Works, House of Representatives. Safety of Capitol buildings and grounds. Hearings, 90th Congress, 1st session, on H.R. 13178. September 28, 1967.
- Committee on Rules, House of Representatives. To prescribe penalties for certain acts of violence or intimidation. Hearings, 90th Congress, 2d session, on H. Res. 1100.
  - Part 1. March 28, 29, April 2, 1968.
  - Part 2. April 4, 5, 8, 9, 1968.
- Committee on Science and Astronautics, House of Representatives. Review of the Soviet space program, 1967. Committee Print, 90th Congress.
- Committee on Un-American Activities, House of Representatives. Communist activities in the Central California area. Hearings (July 12, 1964, and April 27, 28, 1966) released 90th Congress, 1st session. March 22, 1967.
- Conduct of espionage within the United States by agents of foreign Communist governments. Hearings, 90th Congress, 1st session. April 6, 7, May 10, June 15, and November 15, 1967.
- The new Communist propaganda line of religion. Hearings, 90th Congress, 1st session. August 10, 1967.
- Amending the Internal Security Act of 1950. Hearings, 90th Congress, 1st session relating to H.R. 10390, H.R. 10391 and H.R. 10681. August 15–18, 1967.
- Subversive influences in riots, looting, and burning. Hearings, 90th Congress, 1st and 2d sessions.
  - Part 1. October 25, 26, 31, and November 28, 1967.
  - Part 2. October 31 and November 1, 1967.
  - Part 3. November 28–30, 1967.
  - Part 3A. June 28, 1968.
  - Part 4. April 23, 24, 1968.
  - Part 5. June 20, 1968.
  - Part 6. June 27 and 28, 1968.
- The present-day Ku Klux Klan movement. Committee Print, 90th Congress. December 11, 1967.
- Communist Commitment to force and violence. Committee Print, 90th Congress. March 2, 1968.

- Communist origin and manipulation of Vietnam Week (April 8–15, 1967). Committee Print, 90th Congress. March 31, 1968.
- Amendments to the Subversive Activities Control Act of 1950. Hearings, 90th Congress, 2d session, relating to H.R. 15626, H.R. 15649, H.R. 16613, H.R. 16757, H.R. 15018, H.R. 15092, H.R. 15229, H.R. 15272, H.R. 15336, and H.R. 15828.
  - Part 1. April 30, May 1, 2, and 22, 1968.
  - Part 2. April 30, May 1, 2, and 22, 1968.
- Subversive involvement in disruption of the 1968 Democratic Party National Convention. Hearings, 90th Congress, 2d session.
  - Part 1. October 1, 3, and 4, 1968.
  - Part 2. December 2 and 3, 1968.
  - Part 3. December 4 and 5, 1968.

### *Ninety-first Congress*

- Committee on Armed Forces, House of Representatives. Inquiry into the disturbances at Marine Corps Base, Camp Lejeune, North Carolina. Hearings, 91st Congress, 1st session. July 20, 1969.
- To probe disturbances of military bases. Hearings, 91st Congress, 1st session on S. 59, H.R. 661, H.R. 12535. December 11, 1969.
- The Soviet threat. Hearings, 91st Congress, 2d session. October 7, 1970.
- Committee on Armed Services, United States Senate. National Security Act of 1947, as amended through December 31, 1969. Committee Print, 91st Congress. 1970.
- Committee on the District of Columbia, House of Representatives. Civil disturbances in Washington. Hearings, 91st Congress, 1st session, on H.R. 16941, 16948, 18541, 17647, 17607 and 18149. May and July, 1969.
- Committee on Foreign Affairs, House of Representatives. Cuba and the Caribbean. Hearings, 91st Congress, 2d session. July 8, 9, 10, 13, 20, 27, 31, August 3, 1970.
- Committee on Foreign Relations, United States Senate. Intelligence and the Anti-Ballistic Missile. Hearings, 91st Congress, 1st session. June 23, 1969.
- United States security agreements and commitments abroad—the Republic of the Philippines. Hearings 91st Congress, 1st and 2d sessions.
  - Part 1. Hearings held in Washington, D.C. September 30, October 1, 2, and 3, 1969.
  - Part 2. Hearings held in Washington, D.C. October 20, 21, 22, and 28, 1969.
  - Part 3. Hearings held in Washington, D.C. November 10, 11, 12, 13, 14, and 17, 1969.
  - Part 4. Hearings held in Washington, D.C. November 24, 25, and 26, 1969, and May 8, 1970.
  - Part 5. Hearings held in Washington, D.C. January 26, 27, 28, and 29, 1970.
  - Part 6. Hearings held in Washington, D.C. February 24, 25, and 26, 1970.

Part 7. June 9 and 11, 1970.

Part 8. June 1, 1970.

Part 9. July 20, 1970.

Part 10. May 25, 26; June 16, 24; July 15, 1970.

Part 11. March 11, April 14, 1969; July 17, 1970.

——— Background information relating to peace and security in Southeast Asia and other areas. Committee Print, 91st Congress. January 1970.

——— United States security agreements and commitments abroad. Hearings, 91st Congress, 2d session. November 24, 1970.

——— Security agreements and commitments abroad. Committee Print, 91st Congress. December 21, 1970.

Committee on Government Operations, United States Senate. Riots, civil and criminal disorders. Hearings, 91st Congress, 1st and 2d sessions.

Part 15. Hearings held in Washington, D.C. March 4, 1969.

Part 16. Hearings held in Washington, D.C. May 9, 13, and 14, 1969.

Part 17. Hearings held in Washington, D.C. May 27 and 28, 1969.

Part 18. Hearings held in Washington, D.C. June 16 and 17, 1969.

Part 19. Hearings held in Washington, D.C. June 18, 24, and 25, 1969.

Part 20. June 26 and 30, 1969.

Part 21. July 1, 2, and 8, 1969.

Part 22. July 9, 10, and 15, 16, 1969.

Part 23. July 22; August 4, and 5, 1969.

Part 24. July 15, 16, 17, 21, 22 and 29, 1970.

Part 25. July 31; August 4, 5, and 6, 1970.

——— The Soviet approach to negotiation. Committee Print, 91st Congress. 1969.

——— Czechoslovakia and the Brezhnev Doctrine. Committee Print, 91st Congress. 1969.

——— The National Security Council, comment by Henry A. Kissinger. Committee Print, 91st Congress, 2d session. March 3, 1970.

——— Communist strategy and tactics of employing peasant dissatisfaction over conditions of land tenure for revolutionary ends in Vietnam. Committee Print, 91st Congress, 2d session. August, 1970.

Committee on Internal Security, House of Representatives. Investigation of Students for a Democratic Society. Hearings, 91st Congress, 1st session.

Part 1A. Hearings held in Washington, D.C. June 3 and 4, 1969.

Part 1B. Hearings held in Washington, D.C. June 5 and 17, 1969.

Part 2. Hearings held in Washington, D.C. June 24 and 25, 1969 (Kent State University).

Part 3A. Hearings held in Washington, D.C. July 22, 1969 (George Washington University).



Part 3B. Hearings held in Washington, D.C. July 23 and 24, 1969 (George Washington University).

Part 4. Hearings held in Washington, D.C. July 24, 1969 (The American University).

Part 5. Hearings held in Washington, D.C. August 6 and 7, 1969 (University of Chicago; Communist Party efforts with regard to SDS).

Part 6A. Hearings held in Washington, D.C. October 20-22, 1969 (Columbus, Ohio, high schools).

Part 6B. Hearings held in Washington, D.C. October 28, 29, 30, 1969.

Part 7A. Hearings held in Washington, D.C. December 9-11 and 16, 1969.

Part 7B. Hearings held in Washington, D.C. December 17 and 18, 1969.

——— Amendments to the Internal Security Act of 1950. Hearings. 91st Congress, 1st session, relating to H.R. 12699. September 9, 10, and 24, 1969.

——— Amendments to the Internal Security Act of 1950. Hearings. 91st, Congress, 1st session on H.R. 959. September 15 and 16, 1969.

——— Internal Security Act of 1969. Committee Print, 91st Congress, 1st session. January 22, 1969.

——— Hearings relating to various bills to repeal the Emergency Detention Act of 1950. Hearings, 91st Congress, 2d session. March, April, May, September, 1970.

——— Black Panther Party. Hearings. 91st Congress, 2d session.

Part 1. March 4, 5, 6, and 10, 1970.

Part 2. May 12, 13, 14, 20, 1970.

Part 3. July 21-24, 1970.

Part 4. October 6, 7, 8, 13, 14, 15, November 17, 1970.

——— New Mobilization Committee To End The War In Vietnam. Hearings, 91st Congress, 2d session.

Part 1. April 7, 8, 9, 15, 1970.

Part 2. June 9-11, 1970.

——— The theory and practice of Communism in 1970. Hearings, 91st Congress, 2d session. June 23-25, 1970.

——— Hearings regarding the administration of Subversive Activities Control Act of 1950 and the Federal Civilian Employee Loyalty Security Program. Hearings, 91st Congress, 2d session.

Part 1. September 23 and 30, 1970.

——— Subversive Involvement in the origin, leadership, and activities of the New Mobilization Committee To End The War In Vietnam. Committee Print, 91st Congress. 1970.

Committee on the Judiciary, United States Senate. Testimony of Karl Dietrich Wolff. Hearings before the Subcommittee on Internal Security, 91st Congress, 1st session. March 14, 18, 1969.

——— Extent of subversion in campus disorders. Hearings before the Subcommittee on Internal Security, 91st Congress, 1st session.

Part 1. June 19, 1969.

Part 2. August 12, 1969.

Part 3. June 26, 1969.

- Proposed Academic Freedom Protective Act of 1969. Hearings before the Subcommittee on Internal Security, 91st Congress, 1st session. August 5, 1969.
- Communist threat to the United States through the Caribbean. Hearings before the Subcommittee on Internal Security, 91st Congress, 1st and 2d sessions.
  - Part 19. November 27, 1968.
  - Part 20. October 16, 1969.
  - Part 21. June 30, 1970.
- Testimony of George Karlin. Hearings before the Subcommittee on Internal Security, 91st Congress, 1st and 2d sessions.
  - Part 1. November 3, 4, and 5, 1969.
  - Part 2. November 6 and 10, 1969.
  - Part 3. November 13, 18, 24, 1969 and March 9, 1970.
- Extent of subversion in the "New Left." Hearings before the Subcommittee on Internal Security, 91st Congress, 2d session.
  - Part 1. January 20, 1970.
  - Part 2. January 21, 1970.
  - Part 3. March 31, 1970.
  - Part 4. June 10, 1970.
  - Part 5. June 11, July 9, 1970.
  - Part 6. July 1, 1970.
  - Part 7. August 3, 1970.
  - Part 8. September 25, 1970.
  - Part 9. August 6, 1970.
- The Amerasia Papers: a clue to the catastrophe of China. Committee Print, 91st Congress, 2d session.
  - Part 1. January 26, 1970.
  - Part 2. January 26, 1970.
- Testimony of Col. Yevgeny Y. Runge. Hearings before the Subcommittee on Internal Security, 91st Congress, 2d session. February 5, 1970.
- Testimony of Gerald Wayne Kirk. Hearings before the Subcommittee in Internal Security, 91st Congress, 2d session.
  - Part 1. March 9, 1970.
  - Part 2. March 10, 1970.
  - Part 3. March 11, 1970.
- Threat to U.S. security posed by stepped-up Sino-Soviet Hostilities. Hearings before the Subcommittee on Internal Security, 91st Congress, 2d session. March 17, 1970.
- Testimony of Stokely Carmichael. Hearings before the Subcommittee on Internal Security, 91st Congress, 2d session. March 25, 1970.
- Federal Handling of demonstrations. Hearings, 91st Congress, 2d session. June 10, 1970.
- Assaults on law enforcement officers. Hearings before the Subcommittee on Internal Security, 91st Congress, 2d session.
  - Part 1. October 6, 1970.
  - Part 2. October 7, 1970.
  - Part 3. October 8, 1970.
  - Part 4. October 9, 1970.
  - Part 5. October 9, 1970.

- World Communism, 1967–1969; Soviet efforts to re-establish control. Committee Print, 91st Congress, 2d session. November 19, 1970.
- The human cost of Soviet Communism. Committee Print, 91st Congress, 2d session. 1970.
- Castro's broken pledges. Committee Print, 91st Congress, 2d session. 1970.

*Ninety-second Congress*

- Committee on Armed Services, House of Representatives. Cuban Plane Incident at New Orleans. Hearings, 92d Congress, 1st session, on H. Res. 201. November 9, 17, December 9, 1971.
- Proper classification and Handling of government information involving the national security. Hearings, 92d Congress, 2d session. March 8–10, 13, 14, 16, 22, 24, May 9, 1972.
- Disciplinary problems in the United States Navy. Hearings, 92d Congress, released January 2, 1973.
- Committee on the District of Columbia, House of Representatives. Criminal penalties for assaults on firemen. Hearings, 92d Congress, 1st session on H.R. 5638. March 29, 1971.
- Committee on Foreign Affairs, House of Representatives. Denial of human rights to Jews in the Soviet Union. Hearings, 92d Congress, 1st session. May 17, 1971.
- Soviet naval activities in Cuba. Hearings, 92d Congress, 1st and 2d sessions.
  - Part 1. September 30, October 13, and November 19, 24, 1970.
  - Part 2. September 28, 1971.
  - Part 3. September 26, 1972.
- Soviet involvement in the Middle East and the Western response. Hearings, 92d Congress, 1st session. October 19–21, November 23, 1971.
- United States–Republic of China relations. Hearings, 92d Congress, 1st session. October 20, 21, 26, 1971.
- Newsmen's visit to China. Hearings, 92d Congress, 1st session. November 3, 1971.
- Soviet Jewry. Hearings, 92d Congress, 1st session. November 9–10, 1971.
- A Sino-Soviet perspective in the Middle East. Hearings, 92d Congress, 2d session. April 26, 1972.
- The new China policy: its impact on the United States and Asia. Hearings 92d Congress, 2d session. May 2, 3, 16, 17, 1972.
- Conference on European security. Hearings, 92d Congress, 2d session. April 25–September 27, 1972.
- National security policy and the changing world power alignment. Hearings, 92d Congress, 2d session. May 24–24–August 8, 1972.
- Committee on Foreign Relations, United States Senate. United States relations with the People's Republic of China. Hearings, 92d Congress, 1st session, on S.J. Res. 48, S. Res. 18, 37, 82, and 139. June 24, 25, 28, 29, July 20, 1971.
- United States policy towards Cuba. Hearings, 92d Congress, 1st session on S.J. Res 146, 148, and S. Res. 160. September 16, 1971.

- China and the United States, today and yesterday. Hearings, 92d Congress, 2d session. February 7, 8, 1972.
- National Security Act Amendments. Hearings, 92d Congress, 2d session. March 28, 30, April 24, 1972.
- United States-China Relations. Hearings held on December 5, 6, 7, 10, 1945. Released 92d Congress.
- Committee on Internal Security. House of Representatives. The theory and practice of Communism in 1971. Hearings, 92d Congress, 1st session.
  - Part 1. March 23-25, 29, and 30, 1971.
  - Part 2. March 30, April 1, May 10-12 and August 4-5, 1971.
  - Part 3. October 5-7, and 14, 1971.
- Progressive Labor Party. Hearings, 92d Congress, 1st session. April 13, 14, November 18, 1971.
- Hearings regarding the administration of the Subversive Activities Control Act of 1950 and the Federal Civilian Employer Loyalty Security program. Hearings, 92d Congress, 1st and 2d sessions.
  - Part 1. 91st Congress.
  - Part 2. April 21, 22, and 27-29, 1971.
  - Part 3. June 2, 3, 8, 10, July 27-29, and August 3, 1971.
  - Part 4. January 25, 27, February 25, 29, and March 16, 1972.
- National Peace Action Coalition and Peoples Coalition for Peace and Justice. Hearings, 92d Congress, 1st session.
  - Part 1. May 18-21, 1971.
  - Part 2. June 15-17, 1971.
  - Part 3. July 13-15, 1971.
  - Part 4. July 20-22, June 17, 1971.
- Investigation of attempts to subvert the United States Armed Services. Hearings, 92d Congress, 1st and 2d sessions.
  - Part 1. October 20, 21, 22, 27, and 28, 1971.
  - Part 2. November 9, 10, 16, and 18, 1971, and May 2 and 3, 1972.
  - Part 3. May 9 and 10, and June 1 and 20, 1972.
- Restraints on travel to hostile areas. Hearings, 92d Congress, 2d session, regarding H.R. 16742. September 19 and 25, 1972.
- The theory and practice of Communism in 1972. Hearings, 92d Congress, 2d session.
  - Part 1. May 25, July 20, 1972.
  - Part 2. October 16, 18, 19, 1972.
- The Federal Civilian Employee Loyalty Program. Hearings 92d Congress. Rept. No. 1637 released on January 3, 1973.
- Committee on the Judiciary, United States Senate. Communist threat to the United States through the Caribbean; testimony of Francisco Antonio Teira Alfonso. Hearings before the Subcommittee on Internal Security, 92d Congress, 1st session.
  - Part 23. February 25, 1971.
  - Part 24. September 27, 1971.
  - Part 25. October 15, 1971.
- Testimony of Thomas Edward Mosher. Hearings before the Subcommittee on Internal Security, 92d Congress, 1st session.
  - Part 1. February 11, 12, and March 19, 1971.

Part 2. March 10, 11, and 15, 1971.

——— Testimony of Lawrence Britt. Hearings before the Subcommittee on Internal Security, 92d Congress, 1st session. May 5, 1971.

——— Proposed Amendments to the Internal Security Laws. Hearings, before the Subcommittee on Internal Security, 92d Congress, 1st session on S. 1499, S. 1500, S. 1501, S. 1502, S. 1503, S. 1504.

Part 1. May 11, 1971.

Part 2. May 12, 1971.

Part 3. May 13, 1971.

——— President Nixon's Executive Order 11605 relating to the Subversive Activities Control Board. Hearings before the Subcommittee on Separation of Powers, 92d Congress, 1st session on S. 2466 and S. Res. 163. October 5 and 7, 1971.

——— Selective Service and amnesty. Hearings before the Subcommittee on Administrative Practice and Procedure, 92d Congress, 2d session. February 28–March 1, 1972.

——— To amend the Subversive Activities Control Act. Hearings before the Subcommittee on Internal Security, 92d Congress, 2d session. June 29, 1972.

——— World drug traffic and its impact on U.S. security. Hearings before the Subcommittee on Internal Security, 92d Congress, 2d session.

Part 1. August 14, 1972.

Part 2. September 12, 1972.

Part 3. September 13, 15, 1972.

Part 4. September 14, 1972.

Part 5. September 18, 1972.

——— Testimony of Frances G. Knight. Hearings before the Subcommittee on Internal Security, 92d Congress, 2d session. September 15, 1972.

——— Abuse of psychiatry for political repression in the Soviet Union. Hearings before the Subcommittee on Internal Security, 92d Congress, 2d session. September 26, 1972.

——— Human cost of Communism in Vietnam; compendium prepared for the Subcommittee to Investigate Administration of the Internal Security Act and other Internal Security Laws. Committee Print, 92d Congress, 2d session. 1972.

Committee on Public Works, United States Senate. Security on the Capitol grounds relating to the bombing of the U.S. Capitol. Hearings, 92d Congress, 1st session. March 2, 1971.

### *Ninety-third Congress*

Committee on Agriculture and Forestry, United States Senate. Observations on Soviet and Polish agriculture. Committee Print, 93d Congress, 1st session. January 11, 1973.

Committee on Foreign Affairs, House of Representatives. Hijacking accord between the United States and Cuba. Hearings, 93d Congress, 1st session. February 20, 1973.

Committee on Foreign Relations, United States Senate. United



States and Communist China in 1949 and 1950; question of rapprochement and recognition (staff study). Committee Print, 93d Congress, 1st session. January 1973.

Committee on the Judiciary, United States Senate. Human cost of Communism in Vietnam. Hearings before the Subcommittee on Internal Security, 93d Congress, 1st session.

Part 2. January 5, 1973.

——— U.S.S.R. labor camps. Hearings before the Subcommittee on Internal Security, 93d Congress, 1st session.

Part 1. February 1, 1973.

Part 2. February 1 and 2, 1973.

Part 3. February 2, 1973.



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*Part VI*

**ENFORCEMENT ACTIVITIES UNDER INTERNAL  
SECURITY LAWS**

**SECTION A. LIST OF ORGANIZATIONS DESIGNATED BY THE ATTOR-  
NEY GENERAL PURSUANT TO EXECUTIVE ORDER 10450**

**SECTION B. INDUSTRIAL PERSONNEL SECURITY REVIEW**

**SECTION C. THE SUBVERSIVE ACTIVITIES CONTROL BOARD**

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## *Part VI*

### **SECTION A. LIST OF ORGANIZATIONS DESIGNATED BY THE ATTORNEY GENERAL PURSUANT TO EXECUTIVE ORDER 10450**

UNITED STATES DEPARTMENT OF JUSTICE, APRIL 1,  
1954

CONSOLIDATED LIST OF ORGANIZATIONS PREVIOUSLY DESIGNATED  
PURSUANT TO EXECUTIVE ORDER NO. 10450, COMPILED FROM  
MEMORANDUM OF THE ATTORNEY GENERAL DATED APRIL 29, JULY 15,  
SEPTEMBER 28, 1953, JANUARY 22, 1954, APRIL 4, SEPTEMBER 21,  
AND OCTOBER 20, 1955, OCTOBER 4, 1957, AND JULY 8, 1958.

Abraham Lincoln Brigade  
Abraham Lincoln School, Chicago, Ill.  
Action Committee to Free Spain Now  
Alabama People's Educational Association (see Communist Political Association)  
American Association for Reconstruction in Yugoslavia, Inc.  
American Branch of the Federation of Greek Maritime Unions  
American Christian Nationalist Party  
American Committee for European Workers' Relief (see Socialist Workers Party)  
American Committee for Protection of Foreign Born  
American Committee for Spanish Freedom  
American Committee for the Settlement of Jews in Birobidjan, Inc.  
American Committee for Yugoslav Relief, Inc.  
American Committee to Survey Labor Conditions in Europe  
American Council for a Democratic Greece, formerly known as the Greek American Council; Greek American Committee for National Unity  
American Council on Soviet Relations  
American Croatian Congress  
American Jewish Labor Council  
American League Against War and Fascism  
American League for Peace and Democracy  
American National Labor Party  
American National Socialist League  
American National Socialist Party  
American Nationalist Party  
American Patriots, Inc.  
American Peace Crusade  
American Peace Mobilization  
American Poles for Peace



American Polish Labor Council  
 American Polish League  
 American Rescue Ship Mission (a project of the United American Spanish Aid Committee)  
 American-Russian Fraternal Society  
 American Russian Institute, New York, also known as the American Russian Institute for Cultural Relations with the Soviet Union  
 American Russian Institute, Philadelphia  
 American Russian Institute of San Francisco  
 American Russian Institute of Southern California, Los Angeles  
 American Slav Congress  
 American Women for Peace  
 American Youth Congress  
 American Youth for Democracy  
 Armenian Progressive League of America  
 Associated Klans of America  
 Association of Georgia Klans  
 Association of German Nationals (Reichsdeutsche Vereinigung)  
 Ausland-Organization der NSDAP, Overseas Branch of Nazi Party  
 Baltimore Forum  
 Benjamin Davis Freedom Committee  
 Black Dragon Society  
 Boston School for Marxist Studies, Boston, Mass.  
 Bridges-Robertson-Schmidt Defense Committee  
 Bulgarian American People's League of the United States of America  
 California Emergency Defense Committee  
 California Labor School, Inc., 321 Divisadero Street, San Francisco, Calif.  
 Carpatho-Russian People's Society  
 Central Council of American Women of Croatian Descent, also known as Central Council of American Croatian Women, National Council of Croatian Women  
 Central Japanese Association (Beikoku Chue Nipponjin Kai)  
 Central Japanese Association of Southern California  
 Central Organization of the German-American National Alliance (Deutsche-Amerikanische Einheitsfront)  
 Cervantes Fraternal Society  
 China Welfare Appeal, Inc.  
 Chopin Cultural Center  
 Citizens Committee for Harry Bridges  
 Citizens Committee of the Upper West Side (New York City)  
 Citizens Committee to Free Earl Browder  
 Citizens Emergency Defense Conference  
 Citizens Protective League  
 Civil Liberties Sponsoring Committee of Pittsburgh  
 Civil Rights Congress and its affiliated organizations, including:  
     Civil Rights Congress for Texas  
     Veterans Against Discrimination of Civil Rights Congress of New York

Civil Rights Congress for Texas (see Civil Rights Congress)  
 Colorado Committee to Protect Civil Liberties  
 Columbians  
 Comité Coordinador Pro Republica Espanola  
 Comité Pro Derechos Civiles (see Puerto Rican Comité Pro Libertades Civiles)  
 Committee for a Democratic Far Eastern Policy  
 Committee for Constitutional and Political Freedom  
 Committee for Nationalist Action  
 Committee for Peace and Brotherhood Festival in Philadelphia  
 Committee for the Defense of the Pittsburgh Six  
 Committee for the Negro in the Arts  
 Committee for the Protection of the Bill of Rights  
 Committee for World Youth Friendship and Cultural Exchange  
 Committee to Abolish Discrimination in Maryland (see Congress against Discrimination; Maryland Congress Against Discrimination; Provisional Committee to Abolish Discrimination in the State of Maryland)  
 Committee to Aid the Fighting South  
 Committee to Defend Marie Richardson  
 Committee to Defend the Rights and Freedom of Pittsburgh's Political Prisoners.  
 Committee to Uphold the Bill of Rights  
 Commonwealth College, Mena, Arkansas  
 Communist Party, U.S.A., its subdivisions, subsidiaries and affiliates  
 Communist Political Association, its subdivisions, subsidiaries and affiliates, including:  
     Alabama People's Educational Association  
     Florida Press and Educational League  
     Oklahoma League for Political Education  
     People's Educational and Press Association of Texas  
     Virginia League for People's Education  
 Congress Against Discrimination (see Committee to Abolish Discrimination in Maryland)  
 Congress of American Revolutionary Writers  
 Congress of American Women  
 Congress of the Unemployed  
 Connecticut Committee to Aid Victims of the Smith Act  
 Connecticut State Youth Conference  
 Council for Jobs, Relief and Housing  
 Council for Pan-American Democracy  
 Council of Greek Americans  
 Council on African Affairs  
 Croatian Benevolent Fraternity  
 Dai Nippon Butoku Kai (Military Virtue Society of Japan or Military Art Society of Japan)  
 Daily Worker Press Club  
 Daniels Defense Committee  
 Dante Alighieri Society (between 1935 and 1940)  
 Dennis Defense Committee  
 Detroit Youth Assembly

East Bay Peace Committee, Elsinore Progressive League.  
 Emergency Conference to Save Spanish Refugees (founding body  
 of the North American Spanish Aid Committee)  
 Families of the Baltimore Smith Act Victims  
 Families of the Smith Act Victims  
 Federation of Italian War Veterans in the U.S.A., Inc. (Associa-  
 zione Nazionale Combattenti Italiani, Federazione degli Stati  
 Uniti d'America)  
 Finnish-American Mutual Aid Society  
 Florida Press and Educational League (see Communist Political  
 Association)  
 Frederick Douglass Educational Center  
 Freedom Stage, Inc.  
 Friends of the New Germany (Freunde des Neuen Deutschlands)  
 Friends of the Soviet Union  
 Garibaldi American Fraternal Society  
 George Washington Carver School, New York City  
 German-American Bund (Amerikadeutscher Volksbund)  
 German-American Republican League  
 German-American Vocational League (Deutsche-Amerikanische  
 Berufsgemeinschaft)  
 Guardian Club  
 Harlem Trade Union Council  
 Hawaii Civil Liberties Committee  
 Heimuska Kai, also known as Nokubei Heieki Gimusha Kai,  
 Zaibel Nihonjin, Heiyaku Gimusha Kai, and Zaibei Heimusha  
 Kai (Japanese Residing in America Military Conscripts Asso-  
 ciation)  
 Hellenic-American Brotherhood  
 Hinode Kai (Imperial Japanese Reservists)  
 Hinomaru Kai (Rising Sun Flag Society—a group of Japanese  
 War Veterans)  
 Hokubei Zaigo Shoke Dan (North American Reserve Officers  
 Association)  
 Hollywood Writers Mobilization for Defense  
 Hungarian-American Council for Democracy  
 Hungarian Brotherhood  
 Idaho Pension Union  
 Independent Party (Seattle, Washington)  
 Independent People's Party (see, Independent Party)  
 Industrial Workers of the World  
 International Labor Defense  
 International Union of Mine, Mill and Smelter Workers  
 International Workers Order, its subdivisions, subsidiaries and  
 affiliates  
 Japanese Association of America  
 Japanese Overseas Central Society (Kaigai Dobo Chuo Kai)  
 Japanese Overseas Convention, Tokyo, Japan, 1940  
 Japanese Protective Association (Recruiting Organization)  
 Jefferson School of Social Science, New York City  
 Jewish Culture Society  
 Jewish People's Committee

Jewish People's Fraternal Order  
 Jikyoku Inkai (The Committee for the Crisis)  
 Johnson-Forest Group (see Johnsonites)  
 Johnsonites (see Johnson-Forest Group)  
 Joint Anti-Fascist Refugee Committee  
 Joint Council of Progressive Italian-Americans, Inc.  
 Joseph Weydemeyer School of Social Science, St. Louis, Missouri  
 Kibei Seinen Kai (Association of U.S. Citizens of Japanese Ancestry who have returned to America after studying in Japan)  
 Knights of the White Camellia  
 Ku Klux Klan  
 Kyffhaeuser, also known as Kyffhaeuser League (Kyffhaeuser Bund), Kyffhaeuser Fellowship (Kyffhaeuser Kameradschaft)  
 Kyffhaeuser War Relief (Kyffhaeuser Kriegshilfswerk)  
 Labor Council for Negro Rights  
 Labor Research Association, Inc.  
 Labor Youth League  
 League for Common Sense  
 League of American Writers  
 Lictor Society (Italian Black Shirts)  
 Macedonian-American People's League  
 Mario Morgantini Circle  
 Maritime Labor Committee to Defend Al Lannon  
 Maryland Congress Against Discrimination (see Committee to Abolish Discrimination in Maryland)  
 Massachusetts Committee for the Bill of Rights  
 Massachusetts Minute Women for Peace (not connected with the Minute Women of the U.S.A., Inc.)  
 Maurice Braverman Defense Committee  
 Michigan Civil Rights Federation  
 Michigan Council for Peace  
 Michigan School of Social Science  
 Nanka Teikoku Gunyudan (Imperial Military Friends Group of Southern California War Veterans)  
 National Association of Mexican Americans (also known as Asociacion Nacional Mexico-Americana)  
 National Blue Star Mothers of America (not to be confused with the Blue Star Mothers of America organized in February 1942)  
 National Committee for Freedom of the Press  
 National Committee for the Defense of Political Prisoners  
 National Committee to Win the Peace  
 National Committee to Win Amnesty for Smith Act Victims  
 National Conference on American Policy in China and the Far East (a Conference called by the Committee for a Democratic Far Eastern Policy)  
 National Council of Americans of Croatian Descent  
 National Council of American-Soviet Friendship  
 National Federation for Constitutional Liberties  
 National Labor Conference for Peace  
 National Negro Congress  
 National Negro Labor Council  
 Nationalist Action League

Nationalist Party of Puerto Rico  
 Nature Friends of America (since 1935)  
 Negro Labor Victory Committee  
 New Committee for Publications  
 Nichibei Kogyo Kaisha (the Great Fujii Theatre)  
 North American Committee to Aid Spanish Democracy  
 North American Spanish Aid Committee  
 North Philadelphia Forum  
 Northwest Japanese Association  
 Ohio School of Social Sciences  
 Oklahoma Committee to Defend Political Prisoners  
 Oklahoma League for Political Education (see Communist Political Association)  
 Original Southern Klans, Inc.  
 Pacific Northwest Labor School, Seattle, Wash.  
 Palo Alto Peace Club  
 Partido del Pueblo of Panama (operating in the Canal Zone)  
 Peace Information Center  
 Peace Movement of Ethiopia  
 People's Drama, Inc.  
 People's Educational and Press Association of Texas (see Communist Political Association)  
 People's Educational Association (incorporated under the name Los Angeles Educational Association, Inc.), also known as People's Educational Center, People's University, People's School  
 People's Institute of Applied Religion  
 Peoples Programs (Seattle, Washington)  
 People's Radio Foundation, Inc.  
 People's Rights Party  
 Philadelphia Labor Committee for Negro Rights  
 Philadelphia School of Social Science and Art  
 Photo League (New York City)  
 Pittsburgh Arts Club  
 Political Prisoners' Welfare Committee  
 Polonia Society of the IWO  
 Progressive German-Americans, also known as Progressive German-Americans of Chicago  
 Proletarian Party of America  
 Protestant War Veterans of the United States, Inc.  
 Provisional Committee of Citizens for Peace, Southwest Area  
 Provisional Committee on Latin American Affairs  
 Provisional Committee to Abolish Discrimination in the State of Maryland (see Committee to Abolish Discrimination in Maryland)  
 Puerto Rican Comite Pro Libertades (CLC) (see Comite Pro Derechos Civiles)  
 Puertorriquenos Unidos (Puerto Ricans United)  
 Quad City Committee for Peace  
 Queensbridge Tenants League  
 Revolutionary Workers League  
 Romanian-American Fraternal Society  
 Russian American Society, Inc.



Sakura Kai (Patriotic Society, or Cherry Association—composed  
 of veterans of the Russo-Japanese War)  
 Samuel Adams School, Boston, Mass.  
 Santa Barbara Peace Forum  
 Schappes Defense Committee  
 Schneiderman-Darcy Defense Committee  
 School of Jewish Studies, New York City  
 Seattle Labor School, Seattle, Wash.  
 Serbian-American Fraternal Society  
 Serbian Vidovdan Council  
 Shinto Temples (limited to State Shinto abolished in 1945)  
 Silver Shirt Legion of America  
 Slavic Council of Southern California  
 Slovak Workers Society  
 Slovenian-American National Council  
 Socialist Workers Party, including American Committee for  
 European Workers' Relief  
 Sokoku Kai (Fatherland Society)  
 Southern Negro Youth Congress  
 Suiko Sha (Reserve Officers Association, Los Angeles)  
 Syracuse Women for Peace  
 Tom Paine School of Social Science, Philadelphia, Pa.  
 Tom Paine School of Westchester, N.Y.  
 Trade Union Committee for Peace (see Trade Unionists for  
 Peace)  
 Trade Unionists for Peace (see Trade Union Committee for  
 Peace)  
 Tri-State Negro Trade Union Council  
 Ukrainian-American Fraternal Union  
 Union of American Croatians  
 Union of New York Veterans  
 United American Spanish Aid Committee  
 United Committee of Jewish Societies and Landsmanschaft Fed-  
 erations, also known as Coordination Committee of Jewish  
 Landsmanschaften and Fraternal Organizations  
 United Committee of South Slavic Americans  
 United Harlem Tenants and Consumers Organization  
 United Defense Council of Southern California  
 United May Day Committee  
 United Negro and Allied Veterans of America  
 Veterans Against Discrimination of Civil Rights Congress of New  
 York (see Civil Rights Congress)  
 Veterans of the Abraham Lincoln Brigade  
 Virginia League for People's Education (see Communist Political  
 Association)  
 Voice of Freedom Committee  
 Walt Whitman School of Social Science, Newark, N.J.  
 Washington Bookshop Association  
 Washington Committee for Democratic Action  
 Washington Committee to Defend the Bill of Rights

Washington Commonwealth Federation  
Washington Pension Union  
Wisconsin Conference on Social Legislation  
Workers Alliance (since April 1936)  
Yiddisher Kultur Farband  
Young Communist League  
Yugoslav-American Cooperative Home, Inc.  
Yugoslav Seamen's Club, Inc.

## SECTION B. INDUSTRIAL PERSONNEL SECURITY REVIEW

### SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

#### EXECUTIVE ORDER 10865

Feb. 23, 1960, 25 F.R. 1583, as amended by Ex. Ord. No. 10909, Jan. 18, 1961, 26 F.R. 508; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247

#### SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

WHEREAS it is mandatory that the United States protect itself against hostile or destructive activities by preventing unauthorized disclosures of classified information relating to the national defense; and

WHEREAS it is a fundamental principle of our Government to protect the interests of individuals against unreasonable or unwarranted encroachment; and

WHEREAS I find that the provisions and procedures prescribed by this order are necessary to assure the preservation of the integrity of classified defense information and to protect the national interest; and

WHEREAS I find that those provisions and procedures recognize the interest of individuals affected thereby and provide maximum possible safeguards to protect such interests:

NOW, THEREFORE, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of State, the Secretary of Defense, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, and the Secretary of Transportation, respectively, shall, by regulation, prescribe such specific requirements, restrictions and other safeguards as they consider necessary to protect (1) releases of classified information to or within United States industry that relate to bidding on, or the negotiation, award, performance, or termination of, contracts with their respective agencies, and (2) other releases of classified information to or within industry that such agencies have responsibility for safeguarding. So far as possible, regulations prescribed by them under this order shall be uniform and provide for full cooperation among the agencies concerned.

(b) Under agreement between the Department of Defense and any other department or agency of the United States, including, but not limited to, those referred to in subsection (c) of this section, regulations prescribed by the Secretary of Defense under subsection (a)

of this section may be extended to apply to protect releases (1) of classified information to or within United States industry that relate to bidding on, or the negotiation, award, performance, or termination of, contracts with such other department or agency, and (2) other releases of classified information to or within industry which such other department or agency has responsibility for safeguarding.

(c) When used in this order, the term "head of a department" means the Secretary of State, the Secretary of Defense, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the head of any other department or agency of the United States with which the Department of Defense makes an agreement under subsection (b) of this section, and in sections 4 and 8, includes the Attorney General. The term "department" means the Department of State, the Department of Defense, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Department of Transportation, any other department or agency of the United States with which the Department of Defense makes an agreement under subsection (b) of this section, and, in sections 4 and 8, includes the Department of Justice.

SEC. 2. An authorization for access to classified information may be granted by the head of a department or his designee, including but not limited to, those officials named in section 8 of this order, to an individual, hereinafter termed an "applicant", for a specific classification category only upon a finding that it is clearly consistent with the national interest to do so.

SEC. 3. Except as provided in section 9 of this order, an authorization for access to a specific classification category may not be finally denied or revoked by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, unless the applicant has been given the following:

(1) A written statement of the reasons why his access authorization may be denied or revoked, which shall be as comprehensive and detailed as the national security permits.

(2) A reasonable opportunity to reply in writing under oath or affirmation to the statement of reasons.

(3) After he has filed under oath or affirmation a written reply to the statement of reasons, the form and sufficiency of which may be prescribed by regulations issued by the head of the department concerned, an opportunity to appear personally before the head of the department concerned or his designee, including, but not limited to, those officials named in section 8 of this order, for the purpose of supporting his eligibility for access authorization and to present evidence on his behalf.

(4) A reasonable time to prepare for that appearance.

(5) An opportunity to be represented by counsel.

(6) An opportunity to cross-examine persons either orally or through written interrogatories in accordance with section 4 on matters not relating to the characterization in the statement of reasons of any organization or individual other than the applicant.

(7) A written notice of the final decision in his case which, if

adverse, shall specify whether the head of the department or his designee, including, but not limited to, those officials named in section 8 of this order, found for or against him with respect to each allegation in the statement of reasons.

SEC. 4. (a) An applicant shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement may be received and considered without affording such opportunity in the circumstances described in either of the following paragraphs:

(1) The head of the department supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national interest.

(2) The head of the department concerned or his special designee for that particular purpose has preliminarily determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and the head of the department or such special designee has determined that failure to receive and consider such statement would, in view of the level or access sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (B) due to some other cause determined by the head of the department to be good and sufficient.

(b) Whenever procedures under paragraphs (1) or (2) of subsection (a) of this section are used (1) the applicant shall be given a summary of the information which shall be as comprehensive and detailed as the national security permits, (2) appropriate consideration shall be accorded to the fact that the applicant did not have an opportunity to cross-examine such person or persons, and (3) a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 5. (a) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that such information has been furnished to the department concerned by an investigative agency pursuant to its responsibilities in connection with assisting the head of the department concerned to safeguard classified information within industry pursuant to this order.

(b) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the applicant, may be received and considered provided that: (1) the head of the department concerned or his special designee for that purpose has made a preliminary determination that such physical evidence appears to be material, (2) the head of the



department concerned or such designee has made a determination that failure to receive and consider such physical evidence would, in view of the level of access sought, be substantially harmful to the national security, and (3) to the extent that the national security permits, a summary or description of such physical evidence is made available to the applicant. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency involved shall be considered. In such instances a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

SEC. 6. The Secretary of State, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, or his representative, or the head of any other department or agency of the United States with which the Department of Defense makes an agreement under section 1(b), or his representative, may issue, in appropriate cases, invitations and requests to appear and testify in order that the applicant may have the opportunity to cross-examine as provided by this order. Whenever a witness is so invited or requested to appear and testify at a proceeding and the witness is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, and the proceeding involves the activity in connection with which the witness is employed, travel expenses and per diem are authorized as provided by the Standardized Government Travel Regulations or the Joint Travel Regulations, as appropriate. In all other cases (including non-Government employees as well as officers or employees of the executive branch of the Government or members of the armed forces of the United States not covered by the foregoing sentence), transportation in kind and reimbursement for actual expenses are authorized in an amount not to exceed the amount payable under Standardized Government Travel Regulations. An officer or employee of the executive branch of the Government or a member of the armed forces of the United States who is invited or requested to appear pursuant to this paragraph shall be deemed to be in the performance of his official duties. So far as the national security permits, the head of the investigative agency involved shall cooperate with the Secretary, the Administrator, or the head of the other department or agency, as the case may be, in identifying persons who have made statements adverse to the applicant and in assisting him in making them available for cross-examination. If a person so invited is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, the head of the department or agency concerned shall cooperate in making that person available for cross-examination.

SEC. 7. Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.

SEC. 8. Except as otherwise specified in the preceding provisions of this order any authority vested in the head of a department by this order may be delegated to the

(1) Under Secretary of State or a Deputy Under Secretary of State, in the case of authority vested in the Secretary of State;

(2) Deputy Secretary of Defense or an Assistant Secretary of Defense, in the case of authority vested in the Secretary of Defense;

(3) General Manager of the Atomic Energy Commission, in the case of authority vested in the Commissioners of the Atomic Energy Commission;

(4) Deputy Administrator of the National Aeronautics and Space Administration, in the case of authority vested in the Administrator of the National Aeronautics and Space Administration;

(5) Under Secretary of Transportation, in the case of authority vested in the Secretary of Transportation;

(6) Deputy Attorney General or an Assistant Attorney General, in the case of authority vested in the Attorney General; or

(7) the deputy of that department, or the principal assistant to the head of that department, as the case may be, in the case of authority vested in the head of a department or agency of the United States with which the Department of Defense makes an agreement under section 1(b).

SEC. 9. Nothing contained in this order shall be deemed to limit or affect the responsibility and powers of the head of a department to deny or revoke access to a specific classification category if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the head of a department determines that the procedures prescribed in sections 3, 4, and 5 cannot be invoked consistently with the national security and such determination shall be conclusive.

# INDUSTRIAL PERSONNEL SECURITY REVIEW REGULATION<sup>77</sup>

[31 F.R. 16188]

## TITLE 32—NATIONAL DEFENSE

### CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

#### SUBCHAPTER D—SECURITY

##### PART 155—INDUSTRIAL PERSONNEL SECURITY CLEARANCE PROGRAM

- Sec.  
155.1 Purpose.  
155.2 Definitions.  
155.3 Applicability and scope.  
155.4 Policy.  
155.5 Criteria.  
155.6 Administration.  
155.7 Procedures.  
155.8 Suspension actions in security violation cases.  
155.9 Reimbursement for loss of earnings  
155.10 Pending and reopened cases.  
155.12 Personnel clearance memorandums.

**AUTHORITY:** The provisions of this Part 155 issued under R.S. 161, sec. 202, 61 Stat. 500, as amended: 5 U.S.C. 301, 10 U.S.C. 3012, 8012. E.O. 10501, Nov. 5, 1953, 18 F.R. 7049; 3 CFR (1953 Supp.) 115; E.O. 10865, Feb. 20, 1960, 25 F.R. 1583, as amended by E.O. 10909, Jan. 17, 1961, 26 F.R. 508.

**SOURCE:** The provisions of this Part 155 appear at 31 F.R. 16188, Dec. 17, 1966, unless otherwise noted.

§ 155.1 *Purpose.* In accordance with Executive Order 10865 as amended by Executive Order 10909 this part establishes the standard and criteria for making security clearance determinations when persons employed in private industry require access to classified defense information, and sets forth procedures which shall be followed for cases arising under the Department of Defense Industrial Personnel Security Clearance Program (hereinafter referred to as the Program).

§ 155.2 *Definitions.* (a) "Department of Defense components" includes the Military Departments and Defense Agencies and, as appropriate, their subordinate organizations.

(b) "Agencies" refers to Executive Departments and agencies outside of the Department of Defense which have agreed to process industrial personnel security clearances under this part.

(c) Agency case: A case arising out of the release of classified information to or within industry by any agency.

(d) Agency head: The head of any of the Agencies in paragraph (b) of this section.

(e) Applicant: A person eligible to have the status of this clearance determined under this part.

<sup>77</sup> See *Greene v. McElroy*, 360 U.S. 474 (1959).

(f) **Contractor:** An industrial, educational, commercial, or other organization which has executed a Department of Defense Security Agreement.

(g) **Examiner:** An official designated by the Department of Defense to conduct hearings and make determinations under the program.

(h) **Hearing:** A proceeding convened and conducted by an Examiner in accordance with this part for the purpose of determining an applicant's eligibility for a clearance.

(i) **Security clearance or clearance:** An authorization for a contractor or person employed by a contractor to have access to specified levels of classified defense information provided his duties so require.

(j) **Statement of reasons:** A statement issued by the Department of Defense setting out the reasons why an applicant's security clearance should be denied, suspended, or revoked.

§ 155.3 *Applicability and scope.* (a) The provisions of this part are applicable to all Department of Defense components.

(b) By mutual agreement, the provisions of this part also extend to other agencies. These agencies include the Department of State, Department of Treasury, Department of Commerce, General Services Administration, National Science Foundation, Small Business Administration, Federal Aviation Agency, National Aeronautics and Space Administration, and such other agencies as may agree to process industrial security clearance cases under this part.

(c) All applicants in private industry who require access to classified defense information shall as a minimum be investigated in accordance with the standards set forth in Department of Defense Directive 5210.8, Policy on Investigation and Clearance of Department of Defense Personnel for Access to Classified Defense Information, dated February 15, 1962.

(d) This part applies to cases in which the applicant is eligible to be considered for a clearance, and Department of Defense activity has recommended either (1) that such clearance be denied or revoked, or (2) that such clearance be suspended under § 155.8(a).

(e) In cases where an applicant's clearance has been suspended or a statement of reasons issued, the subsequent termination of employment will not affect the applicant's right to pursue these procedures.

(f) The program may be extended to other cases at the direction of the Assistant Secretary of Defense (Administration).

(g) The program does not extend to cases involving access to communications analysis material or information, to cases in which a clearance is administratively withdrawn without prejudice upon a finding that the applicant is not eligible, or to cases in which an interim clearance is withdrawn during an investigation.

§ 155.4 *Policy.* (a) Access to classified information shall be granted or continued only to those individuals who have been determined eligible based upon a finding that to do so is clearly consistent with the national interest.

(b) In the course of an investigation, interrogation, examination, or hearing, the applicant may be requested to answer relevant questions, or to authorize others to release relevant information about



himself. The applicant is expected to give full, frank, and truthful answers to such questions, and to authorize others to furnish relevant information. The applicant may elect on constitutional or other grounds not to comply. However, such a willful failure or refusal to furnish or to authorize the furnishing of relevant and material information may prevent the Department of Defense from reaching the affirmative finding required by Executive Order 10865 as amended by Executive Order 10909 in which event any security clearance then in effect shall be suspended by the Assistant Secretary of Defense (Administration), or his designee, and the further processing of his case discontinued.

(c) Inquiries concerning an applicant will be limited to matters relevant to a determination whether granting access to classified information is clearly consistent with the national interest, and shall not be directed to the applicant's opinions about: (1) Religious beliefs and affiliations; (2) racial matters; (3) political candidates or parties other than those included in § 155.5(d); (4) the constitutionality or wisdom of legislative policies.

(d) Determinations under this part shall be in terms of the national interest and shall in no sense be determinations as to the loyalty of the applicant; nor shall they be considered a bar to employment in a position not requiring access to classified information.

(e) The conduct described in § 155.5 may, in the light of all the surrounding circumstances, be the basis for denying or revoking a clearance. The conduct varies in implication, degree of seriousness, and significance depending upon all the factors in a particular case. Therefore, the ultimate determination must be an overall common sense one based upon all the information which may properly be considered under this part including, but not limited to such factors as the following: The seriousness of the conduct, its implications, its recency, the motivations for it, the extent to which it was voluntary and undertaken with knowledge of the circumstances involved and, to the extent that it can be estimated and is appropriate in a particular case, the probability that it will continue in the future.

§ 155.5 *Criteria.* The criteria for determining eligibility for a clearance shall relate, but not be limited to the following:

(a) The attempt or commission of any act of sabotage, espionage, treason, or sedition, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(b) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or with an espionage agent or other representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means.

(c) Advocacy of use of force or violence to overthrow the Government of the United States, or of the alteration of the form of Government of the United States by unconstitutional means.

(d) Membership in, or affiliation or sympathetic association with,



or participation in the activities of any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

(e) International, unauthorized disclosure to any person of classified information, or of other information, disclosure of which is prohibited by law.

(f) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(g) Participation in the activities of an organization established as a front for an organization referred to in paragraph (d) of this section under circumstances indicating that his personal views were sympathetic to the subversive purposes of such organization.

(h) Participation in the activities of an organization with knowledge that it had been infiltrated by members of subversive groups under circumstances indicating that the individual was a part of, or sympathetic to, the infiltrating element or sympathetic to its purposes.

(i) Sympathetic interest in totalitarian, Fascist, Communist, or similar subversive movements.

(j) Sympathetic association with a member, or members, or an organization referred to in paragraph (d) of this section. Ordinarily, this will not include chance or occasional meetings nor contacts limited to normal business or official relations.

(k) Currently maintaining a close continuing association with a person who has engaged in activities or associations of the type referred to in paragraphs (a) through (j) of this section. A close continuing association may be deemed to exist where the individual lives at the same premises as, frequently visits, or frequently communicates with, such person.

(l) Close continuing association of the type described in paragraphs (a) through (k) of this section even though later separated by distance, where the circumstances indicate that renewal of the association is probable.

(m) Willful violation or disregard of security regulations.

(n) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(o) Any deliberate misrepresentations, falsifications, or omission of material facts from a Personnel Security Questionnaire, Personal History Statement, or similar document.

(p) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(q) Acts of a reckless, irresponsible, or wanton nature which indicate such poor judgment and instability as to suggest that the individual might disclose classified information to unauthorized persons, or otherwise assist such persons, whether deliberately or inadvertently, in activities inimical to the national interest.

(r) Any illness, including any mental condition, of a nature which, in the opinion of competent medical authority, may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical finding in such cases.

(s) Any facts or circumstances which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may be likely to cause action contrary to the national interest. Such facts may include: The presence of a close relative of the applicant or of the applicant's spouse in a nation whose interests may be inimical to the interests of the United States, or in satellites or occupied areas of such a nation, under circumstances permitting coercion or pressure to be brought on the individual through such relatives which may be likely to cause action contrary to the national interest. The term close relative includes parents, brothers, sisters, offspring, and spouse.

(t) Excessive indebtedness, recurring financial difficulties, unexplained affluence or repetitive unexplained absences.

(u) Refusal by the individual, without satisfactory subsequent explanation, to answer questions before a Congressional Committee, Federal or State court, or Federal administrative body, regarding charges of his alleged disloyalty or other conduct relevant to his security eligibility.

§ 155.6 *Administration.* (a) The Assistant Secretary of Defense (Administration) shall provide overall policy guidance for the Program and is responsible for its administration, including the organization and composition of the various boards and staffs, and the establishment of field offices. The Assistant Secretary of Defense (Administration), or his designee, may issue such supplemental instructions and guidance as may be desirable for efficient and equitable operation of the Program or to accomplish the objectives set out in Executive Order 10865. (See § 155.12)

(b) An Office shall be established in the Office of the Assistant Secretary of Defense (Administration), to administer the program and shall include an Administrative Staff, Department Counsel, Screening Board, Field Offices, and an Appeal Board.

(c) Department of Defense components designated to support boards, staffs, and field offices will provide, from resources available to the designated Department of Defense component, financing, personnel, and personnel spaces, office facilities, and related administrative support.

(d) The Assistant Secretary of Defense (Administration), or his designee, is authorized to issue in appropriate cases, invitations and travel orders to persons to appear and testify who have provided oral or written statements adverse to the applicant relating to a controverted issue. The Assistant Secretary of Defense (Administration), or his designee, is authorized to issue instructions regarding the issuance of travel orders, payment of travel expenses, and reimbursement for actual expenses as provided by section 6 of Executive Order 10865 as amended by Executive Order 10909.

(e) Screening Board members will be designated by the Assistant Secretary of Defense (Administration), or his designee. The Screen-

ing Board will be divided into panels of three members each; one member of each panel will be designated as chairman. In an agency case, the Agency Head may appoint one member from his agency to such a panel.

(f) Examiners, who must be qualified civilian attorneys, will be designated by the Assistant Secretary of Defense (Administration), or his designee. A single Examiner will be assigned to each case. Examiners will be assigned to such locations as will best serve the needs of the program.

(g) Qualified attorneys will be designated by the Assistant Secretary of Defense (Administration), or his designee, to act as counsel for the Department of Defense in cases in which hearings are held. Department Counsel will present the Department's case at the hearing and will conduct examinations and cross-examinations of those persons testifying, as appropriate. Other functions of Department Counsel include (1) providing advice and assistance to the Screening Board as required, and (2) taking appeals to and arguing cases before the Appeal Board on behalf of the Department. Department Counsel will not participate in the deliberations or determinations of any of the Boards, nor present any argument or other representation to an Examiner or to the Appeal Board with respect to any case pending before such Examiner or Board unless the applicant involved is provided with advance notice of intention and reasonable opportunity to be heard.

(h) Appeal Board members will be designated by the Assistant Secretary of Defense (Administration), or his designee. The Appeal Board will be divided into panels of three members each. One member of each panel will be designated as chairman. In an agency case, the Agency Head may appoint one member from his agency to such a panel.

(i) The Screening Board, the Examiners, and the Appeal Board shall operate under the authority, direction, and control of the Assistant Secretary of Defense (Administration).

§ 155.7 *Procedures.* (a) *Screening Board.* (1) Where a Department of Defense component recommends that an industrial security clearance be denied or revoked, the applicant's case and the recommendation of the Defense component will be referred to the Screening Board. As an interim measure, where a determination is made that the applicant's continued access to classified information, pending action by the Screening Board, would constitute an immediate threat to the national interest, an existing clearance will be suspended. This interim suspension authority, however, is limited to statutory appointees, and the Deputy Director for Contract Administration Services, Defense Supply Agency; where there is significant evidence of espionage or sabotage, emergency suspension action may be taken by an authorized subordinate after consulting with appropriate investigative agency officials. The Assistant Secretary of Defense (Administration) shall be notified promptly of all suspension actions taken under this paragraph together with the basis therefor.

(2) With respect to any case pending before it, the Screening Board may direct (i) further investigation, specifying the particular

matters to be investigated; (ii) written interrogatories; (iii) interviews with the applicant or other persons; (iv) a medical examination of the applicant; or (v) recommend to the Assistant Secretary of Defense (Administration), or his designee, the suspension of the applicant's clearance pending further proceedings.

(3) Determinations of the Screening Board will be made by majority vote.

(4) Where the Screening Board determines that clearance at the level requested is clearly consistent with the national interest, a written determination will be prepared, the Defense component concerned notified, and any outstanding suspension rescinded.

(5) Where the Screening Board determines that the case does not warrant a favorable determination, it will prepare a Statement of Reasons informing the applicant of the grounds upon which his clearance may be denied or revoked. The Statement of Reasons shall be as comprehensive and detailed as the national security permits. For suspension actions in security violation cases, see § 155.8.

(6) The statement of reasons shall be forwarded to the applicant by the Assistant Secretary of Defense (Administration), or his designee, with a letter of instructions clearly outlining subsequent actions required of the applicant, including information on his right to counsel and right to appeal.

(7) To be entitled to a hearing the applicant must submit within twenty (20) days after receipt of the statement of reasons a detailed written answer under oath or affirmation which shall admit or deny specifically each allegation and each supporting fact contained in the statement of reasons. A general denial or other similar answer is not sufficient. The answer must be sufficiently responsive to permit the Department of Defense to determine the issues that are controverted. Where an applicant is without knowledge or information sufficient to form a belief as to the truth of an allegation contained in the statement of reasons, he may, after setting out fully the circumstances so state, and it may have the effect of a denial, upon a showing that he has made reasonable inquiries as to the matters alleged and has been unable to obtain the requisite information or knowledge. If the Assistant Secretary of Defense (Administration), or his designee, finds that the applicant's answer does not meet the above requirements, he shall suspend any security clearance then in effect, and shall discontinue further proceedings.

(8) An applicant who answers the statement of reasons as prescribed above is entitled to a hearing before an Examiner at which he may be represented by counsel of his own choosing, and for which he shall have a reasonable time to prepare. At that hearing he may present evidence in his own behalf and may cross-examine adverse witnesses either orally or in writing as hereinafter provided.

(9) Where the applicant answers the statement of reasons but does not request a hearing, the case will be assigned to one of the Examiners for final determination based upon all available information including the applicant's answer.

(10) Should the applicant not answer the statement of reasons, the Department of Defense component which forwarded the case shall be directed to deny or revoke the clearance, and the applicant shall be so advised.



(b) *Examiner and prehearing procedures.* (1) The applicant who requests and is granted a hearing will be notified of the time and place of the hearing by the Examiner to whom the case is referred. Upon request either of the applicant or Department Counsel, postponements may be granted in the discretion of the Examiner. Dilationary postponements will not be allowed. Normally the hearing will be held in the city where the Examiner's office is located. Where the circumstances warrant convening at a different location, the Examiner may schedule the hearing elsewhere.

(2) Department Counsel is authorized to consult directly with the applicant or his counsel for the purpose of reaching agreement with respect to matters in issue. Stipulations entered into shall be binding upon the applicant and the Department of Defense for the purpose of these proceedings.

(3) The applicant is responsible for producing witnesses and other evidence in his own behalf at the hearing. Upon request, the Department Counsel and the Examiner may provide assistance upon a showing that it is practicable and necessary.

(4) Department Counsel is responsible for producing witnesses and information relied upon by the Department to establish those facts alleged in the statement of reasons which have been controverted. All Department of Defense components shall cooperate fully with Department Counsel so that the Department's responsibilities under this paragraph may be fulfilled.

(5) Where an applicant answers the statement of reasons but fails, without good and sufficient cause, to appear at the time and place set for the proceeding, the Examiner shall return the case to the Assistant Secretary of Defense (Administration), or his designee, who will direct the denial or revocation of the clearance, as appropriate, and advise the applicant.

(c) *Hearing.* (1) The purpose of a hearing under the program is to ascertain all the relevant facts in the case in order that a fair and impartial determination may be reached. The rules, including the rules of evidence, governing court proceedings or administrative hearings conducted under the Administrative Procedure Act are not applicable to hearings under this part.

(2) The hearing will be conducted in an orderly manner. It may be attended only by the Examiner, the applicant and his counsel, authorized personnel of the Department of Defense and necessary clerical personnel. Unless the Examiner rules otherwise, a witness may be present only when testifying. Should the conduct of the applicant or counsel impair the orderly progress of the hearing or should the Examiner's ruling be ignored or flouted deliberately, the Examiner is authorized in his discretion to recess the hearing forthwith. Further proceedings may be held only after satisfactory assurances are made to the Assistant Secretary of Defense (Administration), or his designee, that the rulings of the Examiner will be followed. Otherwise the recess will continue indefinitely, during which time the applicant will be ineligible for a clearance.

(3) The Examiner will notify all witnesses testifying that 18 United States Code 1001 makes it a criminal offense punishable by a maximum of 5 years imprisonment, \$10,000 fine, or both, knowingly



and willfully to make a false statement or representation to any department or agency of the United States as to any matter within the jurisdiction of any department or agency of the United States. Written interrogatories must be sworn to before a notary public or other official authorized to administer oaths.

(4) After a hearing has been convened, and the statement of reasons and the applicant's answer thereto have been entered into the record, the applicant shall have the right to make a general opening statement and to present his case.

(5) The Examiner may require the applicant to respond to relevant questions, to undergo a medical examination, or to authorize the release of relevant information in the possession of other parties. Should the applicant refuse, the Examiner shall refer the case to the Assistant Secretary of Defense (Administration) for action in accordance with the provisions of § 155.4(b).

(6) When appropriate, the Examiner will amend the statement of reasons to make it conform to the information presented and enter the amendment into the record. When such amendments are made, the Examiner will grant the applicant such additional time as the Examiner deems appropriate to answer such amendments and present evidence pertaining thereto.

(7) The Examiner may recess the hearing at the request of the applicant or his counsel, Department Counsel, or upon his own motion.

(8) A verbatim transcript (in triplicate) will be made of the hearing and made a permanent part of the record. The transcript will not include information introduced in accordance with provisions of paragraph (d) (4) and (5) of this section. The applicant will be furnished without cost one copy of the transcript, less the exhibits. Corrections will be allowed by the Examiner solely for the purpose of conforming the transcript to the actual testimony.

(9) Whenever the Examiner concludes that he requires further information in making a determination, he may request that a further investigation or examination be conducted. Information thus developed shall be made available to the Examiner subject to the provisions of this part.

(d) *The case record.* (1) The record of a case shall consist of all information presented in accordance with this part by the Department of Defense and by or on behalf of the applicant. Irrelevant, immaterial, and unduly repetitious material shall be excluded in the discretion of the Examiner.

(2) Information adverse to the applicant on any controverted issue may not be made a part of the hearing record unless (i) the information or a summary thereof has been made available to the applicant and (ii) he either offers no objection to its presentation, or is afforded an opportunity to cross-examine the persons supplying the information either orally or in writing. The foregoing restrictions do not apply to information received and considered under subparagraphs (3), (4), (5), and (6) of this paragraph.

(3) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be made a part of the record in the case subject to rebuttal without authenti-

cating witnesses, provided that such information has been furnished by an investigative agency pursuant to its responsibilities in connection with assisting the Secretary of Defense, or the Agency Head concerned, to safeguard classified information within industry pursuant to Executive Order 10865.

(4) Records compiled in the regular course of business or other physical evidence other than investigative reports, relating to a controverted issue, which, because they are classified, may not be inspected by the applicant, may be received and considered provided the Assistant Secretary of Defense (Administration), as designee of the Secretary of Defense, or when applicable, of the Agency Head concerned has (i) made a preliminary determination that such physical evidence appears to be material, and (ii), determines that failure to receive and consider such physical evidence would, in view of the level of access sought, be substantially harmful to the national security. Information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency involved shall be considered.

(5) A written or oral statement adverse to the applicant on a controverted issue may be received and considered without affording an opportunity to cross-examine the person making the statement only in the circumstances described in either of the following subdivisions:

(i) The head of the department supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national interest.

(ii) The Assistant Secretary of Defense (Administration) as designee of the Secretary of Defense, or when applicable, of the Agency Head, has preliminarily determined, after considering the information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and has determined that failure to receive and consider such statement would, in view of the level or access sought, be substantially harmful to the national security, and that the person who furnished the information cannot appear to testify (a), due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (b), due to some other cause determined by the Secretary of Defense, or, when appropriate, by the Agency Head concerned, to be good and sufficient.

(6) A written or oral statement relating to the characterization in the Statement of Reasons of any organization or individual other than the applicant may be received and considered without affording the applicant an opportunity to cross-examine the person making the statement irrespective of whether the statement is adverse to the applicant or relates to a controverted issue.

(7) Whenever physical evidence or statements are received and considered under subparagraphs (4) and (5) of this paragraph, the applicant will be furnished with as comprehensive and detailed a

summary of the information or physical evidence as the national security permits. Certificates evidencing the determinations required by these sections will be entered into the hearing record. Appropriate consideration shall be accorded by officials charged with making determinations under this part to the fact that the applicant did not have an opportunity to cross-examine the person or persons who provided the information, or to inspect the physical evidence.

(c) *Determinations.* (1) Following the hearing, the Examiner will determine whether it is clearly consistent with the national interest to grant or continue the applicant's clearance at a specific level. He will prepare findings of fact for or against the applicant with respect to each allegation in the Statement of Reasons and reasons in support of the said findings of fact. The Examiner's determination shall be based on grounds set out in the Statement of Reasons and upon information placed in the record in conformity with this part. Where the Examiner's determination is adverse to the applicant, the Examiner shall also determine whether any clearance then held by the applicant should be suspended or limited pending appeal under this part.

(2) Where the Examiner's determination is adverse to the applicant, a copy thereof will be furnished to the applicant. Where the determination is favorable to the applicant, a copy thereof will be furnished to the Department Counsel. In the absence of timely appeal under paragraph (f) of this section, this determination constitutes the final decision in the case: *Provided*, In those cases in which information was received and considered under paragraph (d) (4) and (5) of this section, a copy of the determination, less any deletions required in the interests of national security, will be furnished:

(i) To applicant, if adverse to him, with notice that, in the absence of a timely appeal under paragraph (f) of this section, the case record and the Examiner's determination will be forwarded to the Secretary of Defense or an Agency Head, as appropriate, for final determination;

(ii) To Department Counsel, if favorable to applicant, with notice that, in the absence of timely appeal under paragraph (f) of this section, the determination constitutes the final determination in the case.

(f) *Appeals.* (1) Within 10 days after receiving the Examiner's determination, the applicant or Department Counsel may appeal by filing a Notice of Appeal with the Appeal Board. When a Notice of Appeal is filed, a copy of the Examiner's determination will be furnished to the appellee.

(2) Appeals may be made either in person or by filing a brief, and shall be based solely upon the case record. No further testimony or other evidence shall be received. A brief shall state with particularity the specific issues involved in the appeal, cite the relevant portions of the record and set out the reasons why the determination should be reversed. Where an appeal is made in person, the appellant shall file with the Appeal Board, prior to the scheduled appeal hearing, a written statement identifying the issues to be considered before the Appeal Board. Appellant shall send a copy to the appellee who may file a statement in reply.

(3) The Appeal Board may recommend to the Assistant Secretary of Defense (Administration), or his designee, that a case be returned (i) for further investigation, or (ii) to the Examiner with instructions to take further testimony.

(4) Appeal Board deliberations will be made in executive session and the Board's determination arrived at by majority vote. The Board will prepare a written determination setting forth whether it is clearly consistent with the national interest to grant or continue a clearance to a specific level. The determination will include findings for or against the applicant with respect to each allegation in the Statement of Reasons and a separate memorandum of reasons in support of the determination.

(5) In those cases in which information was received and considered under paragraph (d) (4) and (5) of this section, and the Appeal Board's determination is adverse to the applicant, the case record, together with the determinations of the Examiner and the Appeal Board, will be referred to the Secretary of Defense or the appropriate Agency Head, who, following his personal review of the case, will make a final determination. In all other cases, the Appeal Board's determination will be announced as the final determination in the case.

(6) If the final determination is adverse to the applicant, he will be furnished findings with respect to each allegation in the Statement of Reasons. The Appeal Board's memorandum of reasons will not be furnished to the applicant.

(7) No provision of this part shall be construed as conferring a right upon an applicant to appeal from a final decision to the Secretary of Defense, to the Assistant Secretary of Defense (Administration) or to the Agency Head.

(8) Nothing contained in this part shall be deemed to limit or affect the responsibility and powers of the Secretary of Defense or of an Agency Head to deny or revoke a clearance when the security of the Nation so requires. This authority may be exercised only where he determines personally that the provisions of this part cannot be invoked consistently with the national security. Such determinations shall be conclusive.

§ 155.8 *Suspension actions in security violation cases.* (a) In any case alleging (1) willful, unauthorized use or release of classified information or documents; (2) willful appropriation or retention of classified documents for personal use or for the use of others; or (3) willful concealment of the loss or compromise of classified documents or information, in which the circumstances do not, in the opinion of the Screening Board, require issuance of a Statement of Reasons for the purpose of revoking an existing clearance, the Board shall make a separate finding whether the allegations are established by a preponderance of the evidence. In each case where it so finds, the Screening Board, after consideration of the seriousness of the willful act and in light of all the surrounding circumstances, may recommend to the Assistant Secretary of Defense (Administration), or his designee, the suspension of an existing clearance for a period of time not to exceed 1 year, and shall set out in writing its reasons therefor.



(b) The applicant will be informed of the proposed suspension and will be furnished a copy of the Statement of Reasons. He will be afforded twenty (20) calendar days to give notice of intent to contest the proposed suspension by submitting a responsive answer to the Statement of Reasons. The answer must comply in all respects with the requirements set out in paragraph (a) (7) of this section.

(1) Where the applicant fails to give timely and proper notice of intent to contest the proposed suspension, it shall be ordered into effect.

(2) Where the applicant gives timely and proper notice of intent to contest the proposed suspension, the case shall be referred to a Hearing Examiner for hearing and final determination. The hearing shall be governed by the provisions of this part to the extent applicable. The examiner may adopt, modify, or reject the recommendation of the Screening Board. A determination by the Examiner under this § 155.8 shall be final and no further appeal may be taken.

(c) Upon expiration of the period prescribed in any suspension ordered under this § 155.8, the applicant may apply for reinstatement of his clearance by filing the necessary forms.

§ 155.9 *Reimbursement for loss of earnings.* (a) An applicant may be reimbursed for a loss of earnings resulting directly from the suspension, revocation, or denial of his clearance provided (1) a final determination thereafter is made that it is clearly consistent with the national interest to grant him a clearance for access to classified information at least equal to that which was suspended, revoked, or denied and (2) it is found to be fair and equitable for the Department of Defense to reimburse the applicant for all or a part of the loss of earnings.

(b) It shall be considered fair and equitable, except as hereinafter provided, to reimburse any applicant who has suffered loss of earnings as a result of suspension, revocation, or denial of clearance when that clearance is, in the course of the timely exhaustion of remedies by the applicant, granted or restored. A claim for reimbursement may be denied when:

(1) The subsequent determination to grant the clearance depends upon material facts withheld by the applicant, or where circumstances have changed since the suspension, revocation, or denial and the grant or restoration of the clearance; or

(2) The suspension, revocation, or denial follows the applicant's failure to comply with procedural requirements.

(c) Claims for reimbursement in Department of Defense cases shall be initiated by a petition filed by the applicant with the Assistant Secretary of Defense (Administration). The petition shall contain a detailed statement why fairness and equity require reimbursement, including the basis for the assertion that the loss of earnings is attributable to the suspension, denial, or revocation of the clearance, and shall identify the alleged errors of fact or judgment involved.

(d) Claims for reimbursement in agency cases shall be initiated by a petition filed by the applicant with the agency concerned. At the request of the Agency Head concerned, the Department of Defense under its procedures will review the petition and furnish that agency with a recommendation with respect to the merits of the



petition. However, the Department of Defense is not responsible for payment of such claims.

(e) When a case has been reopened under § 155.10, and thereupon a determination favorable to the applicant is made, a request for reimbursement may be considered only where (1) the applicant exhausted all of the administrative remedies available in the original proceeding, (2) the applicant made a full and complete disclosure during the original proceeding, and (3) the determination to grant or restore the clearance is not based upon circumstances occurring after the final denial or revocation.

(f) The amount of reimbursement shall not exceed the difference between the earnings of the applicant at the time of the suspension, revocation, or denial, whichever is earlier, and the interim net earnings. No reimbursement shall be allowed for any period of undue delay resulting from the applicant's acts or failure to act. Any payment shall be in full satisfaction of any further claim against the United States, the Department of Defense, and the Departments and Agencies referred to in § 155.3(b), arising out of the suspension, revocation, or denial of a clearance. Any claim shall be forever barred unless it is filed within 1 year after the date such claim first accrues, or within 1 year of the final disposition of the case, whichever is later: *Provided*, A claim for reimbursement may be filed under this section within 1 year from the effective date of this part where the applicant filed a claim under Department of Defense Directive 5220.6, Subject: Industrial Personnel Access Authorization Review Regulation, dated July 28, 1960 (25 F.R. 155), but was denied solely on the ground that the clearance determination which resulted in the loss of earnings was not unjustified.

(g) Approved claims against the Department of Defense shall be forwarded to the Department of the Army for payment from "Claims, Defense" Appropriation, in the same manner that Federal tort claims are currently processed under Department of Defense Directive 5515.9, Settlement of Claims Under the Provisions of the Federal Tort Claims Act (28 U.S. Code; secs. 2671-2680) (Delegation to the Secretary of the Army) dated November 15, 1961 (26 F.R. 11089).

§ 155.10 *Pending and reopened cases.* (a) All cases pending before the Screening Board and the Field Boards 30 days from the date hereof shall proceed to a final determination under this part. All cases pending before the Central Board on that date, including those in which the applicant has requested a determination on the record, will be referred to an Examiner for determination, notwithstanding a tentative determination has been announced or oral argument heard.

(b) Any person whose clearance has been denied or revoked under this program or any predecessor program, may have his eligibility for a clearance reconsidered upon a showing of newly discovered evidence or other good cause. The request for reconsideration shall set out fully the grounds therefor. The Assistant Secretary of Defense (Administration), or his designee, in his discretion, shall grant or deny such requests for reconsideration.

(c) Where a clearance previously has been granted under this program, and a Department component or agency receives additional

derogatory information which was not considered at the time the case was decided, it shall refer the information to the Deputy Director for Contract Administration Services, or to the Federal Bureau of Investigation, as appropriate, for appropriate action.

§ 155.12 *Personnel clearance memorandums.* (a) *Personnel Clearance Memorandum No. 70-1, Clearance Applications—(1) Purpose.* This § 155.12(a) is published under the authority of § 155.6(a) and establishes policy for administrative termination of the processing of an industrial personnel security clearance.

(2) *Policy.* A contractor employee who is being processed for an industrial security clearance must have a need for access to classified information in order for a clearance request to be processed. An employee who has submitted a Personnel Security Questionnaire (DD Forms 48 or 49), but who avers on the form, or otherwise makes it known during the processing of the clearance application, that he will not, under any circumstances, work on classified contracts or perform in a capacity requiring access to classified information, cannot be considered a bona fide candidate for clearance notwithstanding the formal initiation of a request for clearance. Such a reservation on the part of the employee negates the requirement for clearance because he will not, in fact, have access to classified information. The processing of such a request for clearance serves no useful Government purpose and causes needless effort and expense to the Department of Defense and the contractor. Such a clearance request, when identified, will be administratively terminated without prejudice to the individual concerned. The contractor and the employee will be advised of the termination and will be informed that the clearance request may be reinstituted on a showing of a change in the applicable facts.

(b) *Personnel Clearance Memorandum No. 71-1, Immigrant Alien Residence Requirements—(1) Purpose.* This paragraph (b) is published under the authority of § 155.6(a) and establishes supplemental instructions and guidance for the administrative disposition of industrial personnel security cases of immigrant aliens who do not meet the prescribed United States residence requirements.

(2) *Policy.* To be eligible to be processed for an industrial security clearance a contractor employee who is an immigrant alien must reside and must intend to reside permanently in the United States (including Puerto Rico, Guam and the Virgin Islands). An immigrant alien contractor employee who does not reside and does not intend to reside permanently in the United States cannot be considered a bona fide candidate for issuance or continuation of a clearance. The processing of a request for clearance of such an immigrant alien causes needless effort and expense to the Department of Defense and to the contractor, serves no useful Government purposes, and will be administratively terminated without prejudice to the individual concerned. The contractor and the employee will be notified of the termination and will be informed that the request for clearance may be reinstituted upon a showing of change in the applicable facts. An immigrant alien contractor employee who is not eligible to be processed for an industrial security clearance is not eligible for continuation of such a clearance.

## SECTION C. THE SUBVERSIVE ACTIVITIES CONTROL BOARD

### FOREWORD

In 1973, following more than two decades of controversy and frustration, the Subversive Activities Control Board closed its doors. Stymied by court decisions which found basic infirmities first in its registration function<sup>78</sup> and later its determination function<sup>79</sup> and barred by legislation from implementing the Federal civilian employment loyalty-security program mandated by Executive Order 11605,<sup>80</sup> the Board's end was signaled by the Budget Document's failure to provide the agency with funds for its operations in fiscal 1974.<sup>81</sup>

The Board's history and activities were described at length by its last Chairman, John W. Mahan, in testimony before the House Internal Security Committee on September 30, 1970.<sup>82</sup> The following are excerpts from Chairman Mahan's remarks:

STATEMENT OF JOHN W. MAHAN, CHAIRMAN, SUBVERSIVE ACTIVITIES CONTROL BOARD, HOUSE COMMITTEE ON INTERNAL SECURITY, SEPTEMBER 23, 1970

#### SUBVERSIVE ACTIVITIES CONTROL BOARD

The Subversive Activities Control Board (SACB) is an independent, five-member, quasi-judicial agency of the Federal Government whose members are appointed by the President with the advice and consent of the Senate. No more than three members may be of the same political party.

The Board was created by Title I of the Internal Security Act of 1950, the Subversive Activities Control Act, which became law over presidential veto on September 23, 1950, in the Second Session of the 81st Congress.

The function of the Board is to hold hearings, on petition of the Attorney General of the United States, for the purpose of determining whether organizations are Communist-action, Communist-front, or Communist-infiltrated, as those terms are defined in the Subversive Activities Control Act. Until recently, it also had the function of determining whether individuals

<sup>78</sup> *Albertson v. Subversive Activities Control Board*, 382 U.S. 70 (1964); *Communist Party USA v. United States of America*, 384 F.2d 957 (C.A.D.C. 1967).

<sup>79</sup> *Boorda v. Subversive Activities Control Board*, 421 F.2d 1142 (C.A.D.C. 1969), cert. denied 397 U.S. 1042.

<sup>80</sup> 86 Stat., 1109 § 706 (1972).

<sup>81</sup> *The Budget of the United States Government*, Fiscal 1974, p. 951.

<sup>82</sup> Hearings Regarding The Administration Of The Subversive Activities Control Act Of 1950 And The Federal Civilian Employee Loyalty-Security Program Hearings before the Committee on Internal Security, House of Representatives, 91st Cong., 2d Sess. (1970) (Part 1), pp. 5134-5176.

were members of the Communist Party, which the Board had found to be a Communist-action organization. Another Board function is to hold hearings, on petition of organizations (and, formerly, individuals) which are the subject of Board findings, to determine whether the finding in question should be vacated or altered.

The Board does not have authority to conduct investigations or initiate proceedings itself. It can hold hearings and issue reports only on request of parties authorized by the Subversive Activities Control Act to submit petitions to it.

#### BACKGROUND

The purpose of Congress in enacting the Internal Security Act which created the SACB can be understood only in the light of certain developments which had taken place over a period of years prior to 1950.

The end of World War II did not bring peace. International Communism's intent to take over the world soon became apparent from its seizure of various governments in Middle and Eastern Europe and its attempts—defeated with United States assistance—to take over Iran, Turkey, Greece, the Philippines and other nations.

Concurrently with these foreign developments, the American people were jolted into a realization that, operating through the U.S. Communist Party and a network of spies and agents, international Communism not only planned the destruction of the United States by force and violence but had made considerable headway in penetrating and influencing many areas of life in this country, including the Government itself.

The 1945 defection of Igor Gouzenko, code clerk of the Soviet Embassy in Ottawa, Canada, revealed American complicity in the theft of United States atomic secrets by the Soviet Union while it was our World War II ally. Louis Budenz' testimony about the Party before the House Committee on Un-American Activities in 1946 also had great impact. Budenz had served for years on the National Board, the ruling body of the Communist Party, and also as managing editor of the Party's newspaper, the "Daily Worker." He was thus in a position to reveal much about the Party that had not been made public before.

Other Congressional revelations about Communist operations, combined with events abroad and widespread open Communist activities within this country, inevitably led to the introduction of bills dealing with the problem of domestic Communist subversion.

In 1947, the Committee on Un-American Activities held seven days of hearings on two such bills. Nineteen witnesses testified in these hearings and their testimony filled approximately 600 pages. Witnesses ranged from Eugene Dennis, then the General Secretary of the Communist Party, to persons such as FBI Director J. Edgar Hoover, the Honorable William C. Bullitt, former Ambassador to the Soviet Union, Victor Krav-



chenko, representatives of veterans and patriotic groups, congressmen, governors, and the President of the AFL, William Green.

Shortly after the completion of these hearings, Senator Mundt, then a Representative and member of the Committee, after consulting with the FBI and his friend and Committee colleague, then Representative Richard M. Nixon, introduced a bill which became known as the Mundt-Nixon bill and was the original version of the Subversive Activities Control Act.

In 1948, a Legislative Subcommittee of the Committee on Un-American Activities, chaired by then Representative Nixon, held hearings on this bill and on another bill which would have outlawed the Communist Party. Thirty witnesses testified in these hearings which extended over a period of seven days. Many prominent Americans were among those testifying—Attorney General Tom C. Clark; FDR braintruster Donald Richberg; Ferenc Nagy, former Premier of Hungary; Louis Waldman, the famous labor lawyer; Admiral William H. Standley, former Ambassador Extraordinary to the Soviet Union; John Foster Dulles; Thomas Reed Powell, Professor of Constitutional Law at Harvard; Raymond Moley, Professor of Law at Columbia University and Associate Editor of Newsweek; Adolph A. Berle, Jr., another Columbia University Law School Professor and former Assistant Secretary of State; Dr. William Yandell Elliott, Professor of Government at Harvard; Eugene Lyons, editor, writer, correspondent and authority on the Soviet Union; the Chairman of the American Bar Association's Special Committee on the Bill of Rights; and Benjamin J. Davis, the late Chairman of the Communist Party.

The House passed the bill on May 19, 1948, by a 319-58 vote, after it was reported by the committee. Hearings on it were held in the Senate but that body adjourned before acting on the measure.

In 1949, additional Senate hearings were held on the Mundt-Nixon and related bills and, in 1950, further hearings were held by the House Committee on Un-American Activities.

\* \* \* \* \*

the result of all this was that by the time September 1950 came, the House and Senate had held 58 days of hearings during which over 230 witnesses had filled some 3,200 pages of testimony with views pro and con the bills which became the Subversive Activities Control Act.

\* \* \* \* \*

It is important to recall that during the years 1947, 48, 49, and 50, while these hearings were being held, more and more evidence was piling up which demonstrated the need for effective internal security measures. There was the testimony of Elizabeth Bentley and Whittaker Chambers before the Committee on Un-American Activities and the eventual Alger Hiss conviction on perjury charges growing out of those hearings. The Committee also exposed American Communist complicity in the



Soviet theft of our atomic secrets from Los Alamos, Communist penetration of the Radiation Laboratories at the University of California and of numerous governmental agencies. Theft of documents and influencing of policy in favor of Soviet Union was also disclosed.

The 1946 Amerasia case alone involved the theft of hundreds of classified Government documents.

In 1947 The Committee on Un-American Activities published a heavily documented report on the Communist Party as the agent of a foreign power. In 1948 it published a similar report on the Communist Party as an advocate of the overthrow of the Government by force and violence.

A Gallup Poll taken early in 1947 revealed that:

61% of the American people believed that membership in the Communist Party should be made a criminal offense:

61% believed that Party members were loyal to the Soviet Union rather than to the United States, and;

67% believed that Communists should be barred from all Government positions.

Communist Party leader William Z. Foster, testifying before the Senate Judiciary Committee in its hearings on the Mundt-Nixon bill in 1948, said that if there were a war with Russia it would be the fault of the United States and United States Party members "are not going to fight against the Soviet Union."

In March 1949, Foster and Eugene Dennis, another top Party leader, said that U.S. Communists would be on the side of Russia in the event of a "Wall Street war." It was after they had made this statement that President Truman referred to the leaders of the Communist Party as "traitors."

In 1949, the CIO began expelling a dozen of its major unions on the basis of Communist control and subservience to the policies of the Cominform rather than the CIO. Communist penetration not only of moving pictures, but of radio and T.V. and the use of these media for propaganda purposes were documented.

The top leaders of the Communist Party, indicted for conspiring to teach and advocate the violent overthrow of the United States Government in 1948, were tried and convicted in 1949.

J. Edgar Hoover in his appearances before the House Appropriations Committee and in speeches and articles did much to alert the Congress and the public about Communist operations and penetration in this country.

In the spring and summer of 1950 the Committee on Un-American Activities held hearings on Communism in the United States Government. During these hearings various persons who had served as Government officials and had been identified as Communists and members of cells within the Government were called as witnesses. They included members of the so-called Silvermaster spy group, named after Nathan Gregory Silvermaster who had been director of the Labor Division of the Farm Secu-

rity Administration and had served on the Board of Economic Warfare; the Perlo group, also involved in espionage, named after Victor Perlo, now a columnist for the Communist Party's newspaper, The Daily World, who was head of a research section branch in the Office of Price Administration who had also been employed by the War Production Board and the Treasury Department; and the Ware-Abt-Witt penetration group named after the late Harold Ware, who had been employed in the Department of Agriculture; John J. Abt, now an attorney for the Communist Party, who had also worked in the Department of Agriculture, for the WPA, the Senate Committee on Education and Labor and the Department of Justice; and Nathan Witt of Agriculture and the NLRB.

On the international front, the Government adopted various methods to combat Soviet aggression and also its propaganda operations. During these years the CIA, Voice of America, and the United States Information Agency were created. The Marshall Plan, forerunner of the various foreign-aid programs that have since been carried out to strengthen foreign nations threatened by Communist aggression, was instituted. In 1949 the North Atlantic Treaty Organization was formed. The South East Asia Treaty Organization (SEATO), was formed several years later. In the light of these developments, it was only natural that steps would also be taken to counter the inroads made by Communism here at home.

These and numerous other events which could be mentioned, coupled with continued Soviet aggression abroad, make readily understandable the determination of Congress that the Internal Security Act be passed before it recessed for the 1950 elections.

\* \* \* \* \*

On August 29, 1950, by a vote of 354 to 20, the House passed H.R. 9490, an updated version of the Mundt-Nixon bill introduced by Chairman Wood of the Committee on Un-American Activities. This bill was adopted by the Senate, with amendments, by a vote of 70 to 7 on September 12. After a conference, the House approved the compromise measure by a vote of 313 to 20 on September 20, and the Senate approved it on the same day by a vote of 51 to 7. Because the Administration had indicated its disapproval of the bill and a veto appeared likely, Congress refused to adjourn as it had planned, but stayed in session so that it could override any veto.

When President Truman vetoed the measure, as had been expected, the House overrode his veto on September 22 by a vote of 286 to 48, and the Senate, early in the morning of September 23, by a vote of 57 to 10,

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### *History of the Board*

Immediately after passing the Internal Security Act, Congress recessed for the 1950 elections until November 27, 1950. President Truman appointed the five original members of the Board on October 23, during the recess. They were:

Seth W. Richardson, Chairman  
 Peter Campbell Brown  
 David J. Coddair  
 Charles M. LaFollette  
 Dr. Kathryn McHale

The Board held its organizational meeting in the Apex Building in Washington, D.C., on November 1, 1950, after Chief Judge Bolitha J. Laws of the United States District Court had administered the oath of office to the members.

At the meeting the Board considered and adopted organizational and functional charts and a budget request for \$326,990 which had been prepared by Francis P. Brassor, a specialist in administration, personnel and budgeting who was loaned to the Board by the office of Administrative Services of the Civil Service Commission to assist in its organization. Mr. Brassor was designated as Acting Executive Secretary of the Board at this meeting. He, like a few other initial employees, was detailed to the Board for several years on a reimbursable basis from other Government agencies.

The Board acquired space in the old RFC Building, now called the Lafayette Building. It received \$60,000 from the President's Emergency Fund for its initial expenses. This and a subsequent congressional appropriation of \$175,000 gave the Board a total of \$235,000 on which to operate during the eight months of its existence in fiscal year 1951.

The next few meetings of the Board were devoted largely to organizational matters, the drafting and adoption of Board Rules and Regulations, the hiring of personnel, and similar matters. The first version of the Board's Rules and Regulations was published in the Federal Register of November 21, 1950 (15 Fed. Reg., 7920, 7960). These Rules and Regulations have been revised several times since then, most recently on January 16, 1963.

At a meeting on December 21, 1950, the Board adopted a seal which had been prepared with the assistance of the Heraldry Branch of the Department of the Army.

President Truman submitted the names of the five Board nominees to the Senate on November 27, 1950, the day it reassembled following the election recess. The Senate failed to act on them prior to adjourning on January 2, 1951. They were therefore resubmitted on February 12, 1951. For reasons of health, Seth W. Richardson, the first chairman, resigned on June 6 before being confirmed. The other four members were confirmed by the Senate on August 9, 1951.

As of June 30, 1951, after being in existence eight months, the Board had 26 employees. During fiscal year 1952, when its appropriation was also \$235,000, it reached a peak of 38 employees. This number had dropped to 34 at the end of that fiscal year. Since that time, the number of employees has always been below 30. At the present time, it is 9.

The largest appropriation received by the Board during the 20 years of its existence was in fiscal year 1966, when its appro-

priation totaled \$480,000. Its lowest appropriation was \$235,000, the sum on which it operated during each of the first two fiscal years of its existence.

Twenty-four persons have been nominated by various Presidents for Board membership, and 21 have actually served as members. There have been six full-term Chairmen. In addition, Mr. LaFollette served as Acting Chairman for a time during June 1951.

The Board received its first petition to hold a hearing on November 20, 1950. This petition, submitted by Attorney General J. Howard McGrath, concerned the Communist Party as a Communist-action organization.

Attorneys General have submitted a total of 94 petitions to the Board requesting it to hold hearings and issue appropriate reports and orders. The breakdown of the types of these petitions is as follows:

Communist-action organizations-----	1
Communist-front organizations-----	25
Communist-infiltrated organizations-----	2
Individual Communist Party Memberships-----	66
Total -----	94

In addition, one organization, the International Union of Mine, Mill and Smelter Workers, found by the Board to be a Communist-infiltrated organization, subsequently filed a petition pursuant to section 13A(b) of the Act asking that the Board find it no longer Communist-infiltrated.

### *Summary and Disposition of Cases*

#### *Communist Party of the United States of America (Docket No. 51-101)*

Petition filed: November 22, 1950. Attorney General: J. Howard McGrath.

Hearings: April 23, 1951-July 1, 1952. Hearing Transcript: 18045 pp.

Place: Washington, D.C., and New York City.

Recommended Decision: October 20, 1952 (170 pp.). By: Kathryn McHale and Peter Campbell Brown, Member and Chairman.

Board Report and Order: April 20, 1953 (219 pp.)—found the Communist Party to be a Communist-action group and ordered it to register as such.

Court of Appeals,\* December 23, 1954, affirmed Board Order.

First Remand: Supreme Court, April 30, 1956, for reconsideration of findings in light of Communist Party claim that testimony of three Government witnesses was false.

Modified Board Report and Order: December 18, 1956 (206

\* "Court of Appeals," in all cases, refers to the U.S. Court of Appeals for the District of Columbia Circuit.



pp.)—again found the Communist Party a Communist-action organization, after testimony of three challenged witnesses had been struck.

Second Remand: January 9, 1958, Court of Appeals, for production of reports to the FBI by witness Markward on grounds that the Supreme Court decision in *Jencks* (353 U.S. 657 (1957)) was applicable to Board proceedings.

Recommended Decision on Second Remand: September 19, 1958 (16 pp.). By: Francis A. Cherry, Board Member.

Modified Report of Board on Second Remand: February 9, 1959 (228 pp.)—reaffirmed original Report and Order.

Modified Report affirmed by Court of Appeals, July 30, 1959.

Board Order became final: October 20, 1961, following Supreme Court decision of June 5, 1961, upholding constitutionality of registration provisions of the Act as they applied to the Communist Party.

Modified Order of Board: January 16, 1968, pursuant to amendments to Subversive Activities Control Act per P.L. 90-237 (January 2, 1968). Modified Order published in the Federal Register, Vol. 33, March 14, 1968, beginning at page 4538.

Record pages: 18545.

#### *Communist-front Cases*

##### *Labor Youth League (Docket No. 102-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Hearings: May 14, 1953–January 25, 1962. Hearing transcript: 2639 pp.

Place: Washington, D.C., and New York City.

Recommended Decision: July 30, 1954 (76 pp.).

By: Harry P. Cain, Board Member.

Report and Order: February 15, 1955 (58 pp.)—found Labor Youth League to be a Communist front.

First Remand: Court of Appeals, January 8, 1962, with instructions to hold hearings for the purpose of determining fact of LYL's dissolution and effect of its nonexistence on Board's original order.

Board Report on Remand: June 20, 1962 (12 pp.)—determined that though LYL had been dormant over 5 years, the dissolution of organization was not of such permanence as to affect its original registration order.

Second Remand: Court of Appeals, April 25, 1963, with instructions to place case in an indefinitely inactive status with authority for the Board to reopen the record and take additional testimony if the LYL should be reactivated.

Board Order: September 19, 1963, pursuant to above judgment of the Court.

Record pages: 5691.

##### *International Workers Order, Inc. (Docket No. 103-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.



Hearings: June 25, 1953—January 4, 1954. Hearing transcript: 348 pp.

Place: Washington, D.C.

Recommended Decision: None.

Board Report and Order: January 14, 1954 (13 pp.)—found IWO to be a Communist front.

Court of Appeals, November 19, 1954, ordered Board to dismiss the Attorney General's petition and vacate the order as moot due to the formal dissolution of the IWO by the State of New York in August 1951.

Board Order: November 23, 1954, dismissed petition pursuant to order of the Court.

Record pages: 715.

*National Council of American-Soviet Friendship, Inc. (Docket No. 104-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Hearings: May 13, 1953—September 8, 1955. Hearing transcript: 5417 pp.

Place: Washington, D.C.

Recommended Decision: June 23, 1955 (55 pp.).

By: David J. Coddair, Board Member.

Board Report and Order: February 7, 1956 (56 pp.)—found NCASF to be a Communist front.

Court of Appeals, May 16, 1963, set aside the order of the Board for failure of the Government to establish preponderance of evidence that the NCASF, at the time of the hearing, was substantially directed, dominated, or controlled by a Communist-action organization, a Communist-foreign government, or the world Communist movement.

Board Order: October 9, 1963—vacated its original order and dismissed petition.

Record pages: 7026.

*Joint Anti-Fascist Refugee Committee (Docket No. 105-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Respondent moved to dismiss petition on ground that it had dissolved subsequent to the filing of the petition.

Attorney General, on May 31, 1955, filed a motion to dismiss the petition without prejudice to his right to institute a new proceeding if and when warranted.

Hearing transcript: 270 pp.

Board Order: June 1, 1955—dismissed petition without prejudice.

Record pages: 516.

*Civil Rights Congress (Docket No. 106-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Hearings: November 15, 1954—January 25, 1962. Hearing transcript: 6596 pp.

Place: Washington, D.C.

Recommended Decision: November 30, 1955 (90 pp.). By: David J. Coddair, Board Member.

Board Report and Order: July 26, 1957 (58 pp.)—found CRC to be a Communist front.

Remand: Court of Appeals, January 8, 1962, for findings as to the alleged dissolution of the CRC.

Board Report on Remand: July 11, 1962 (9 pp.)—found no change in circumstance of CRC that would cause alteration of Order.

Order affirmed, Court of Appeals, May 23, 1963.

Modified Order: January 23, 1968, pursuant to P.L. 90-237 (January 2, 1968).

Record pages: 7256.

*Jefferson School of Social Science (Docket No. 107-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Hearings: May 7, 1953–May 11, 1962. Hearing Transcript: 3814 pp.

Place: Washington, D.C., and New York, New York.

Recommended Decision: December 29, 1954 (221 pp.). By: Thomas J. Herbert, Chairman.

Board Report and Order: June 30, 1955 (141 pp.)—found Jefferson School to be a Communist front.

Remand: Court of Appeals, January 8, 1962, with instructions to hold further hearings to determine whether Jefferson School had dissolved.

Board Report on Remand: June 20, 1962 (13 pp.)—found no permanent termination of School and its obligation to register and original Board Order therefore unaffected by School's circumstance.

Court of Appeals, December 17, 1963, affirmed Board Order.

Modified Order: January 23, 1968, pursuant to P.L. 90-237 (January 2, 1968).

Record pages: 4687.

*Veterans of the Abraham Lincoln Brigade (Docket No. 108-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Hearings: May 11, 1953–July 13, 1965. Hearing transcript: 4783 pp.

Place: Washington, D.C.

Recommended Decision: May 18, 1955 (245 pp.). By: Kathryn McHale, Member.

Board Report and Order: December 21, 1955 (124 pp.)—found VALB to be a Communist front.

Court of Appeals, December 17, 1963, affirmed Board Order.

Remand: Supreme Court, Per Curiam decision, April 26, 1965, for further proceedings because of the staleness of the record.

Board Order: April 20, 1966, dismissed petition and vacated

order because of failure of Attorney General to proceed with the case.

Record pages: 5593.

*American Committee for Protection of Foreign Born (Docket No. 109-53)*

Petition filed: April 22 1953. Attorney General: Herbert Brownell, Jr.

Hearings: May 14, 1953–February 1, 1962. Hearing transcript: 7750 pp.

Place: Washington, D.C.

Recommended Decision: September 10, 1957 (52 pp.)

By: Edward M. Morrissey, Hearing Examiner.

Board Report and Order: June 27, 1960 (52 pp.)—found ACPFB to be a Communist front.

Remand: Court of Appeals, January 8, 1962, to afford respondent opportunity to establish that testimony of witness Hartle was false.

Report on Reconsideration: March 8, 1962 (13 pp.)—found Hartle testimony credible and the challenge without merit. Recommended that Court affirm its Report and Order.

Order affirmed: Court of Appeals, December 17, 1963.

Second Remand: Supreme Court, April 26, 1965, for further proceedings due to the death of the ACPFB's Executive Director, Abner Green, in 1959.

At Board hearing in July 1965, parties stipulated that if the Attorney General, by a fixed date, did not file with the Board notice that he was to proceed with the case, the Board would vacate its order and dismiss the petition.

Board Order: April 6, 1966, vacated its registration order and dismissed the petition.

Record pages: 8521.

*Council on African Affairs (Docket No. 110-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Hearings: May 14, 1953. Hearing transcript: 11 pp.

Place: Washington, D.C.

Attorney General, July 7, 1955, moved to vacate a scheduled hearing to investigate claim of attorney for, and executive officers of, respondent that CAA had dissolved. Attorney General, September 9, 1955, moved to dismiss his petition without prejudice to filing a new petition if warranted.

Board Order: September 15, 1955, granted motion to dismiss petition without prejudice.

Record pages: 245.

*United May Day Committee (Docket No. 111-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Hearings: July 16, 1953–April 20, 1956. Hearing transcript: 1281 pp.

Place: Washington, D.C.

Recommended Decision: March 15, 1956 (78 pp.) By: Thomas J. Herbert, Chairman.

Board Report and Order: April 27, 1956 (79 pp.)—found UMDc to be a Communist front.

Board Order became final upon affirmation of Court of Appeals, December 17, 1963.

Modified Report: January 23, 1968, pursuant to P.L. 90-237 (January 2, 1968).

Record pages: 2040.

*American Slav Congress (Docket No. 112-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Hearings: July 17, 1953–January 13, 1955. Hearing transcript: 88 pp.

Place: Washington, D.C.

Recommended Decision: February 8, 1955 (7 pp.).

By: Edward M. Morrissey, Hearing Examiner. Recommended dismissal of petition on grounds Attorney General had failed to confer jurisdiction on the ASC as an existing organization, the group having dissolved on November 6, 1951, prior to the filing of the petition.

Board Report and Order: April 14, 1955 (10 pp.)—dismissed petition on ground jurisdiction not obtained over ASC, the Act contemplating that only organizations in existence when the petition is served are subject to proceedings for registration.

Member Coddair dissented from this Order, approved by three other Board members, on the ground that the organization had been active subsequent to 1950 and therefore should have been required to register as the law provided.

Record pages: 213.

*Committee for a Democratic Far Eastern Policy (Docket No. 113-53)*

Petition filed: April 22, 1953. Attorney General: Herbert Brownell, Jr.

Hearings: May 14, 1953–February 24, 1955. Hearing transcript: 144 pp.

Place: Washington, D.C.

Recommended Decision: April 12, 1955 (13 pp.). By: Edward C. Morrissey, Hearing Examiner.

Supported motion of former officer of respondent that petition be dismissed on the grounds that, the CDFEP having disbanded in August 1952, it was not in existence at the time the petition was filed and the Board, in the contemplation of the Act, had therefore not obtained jurisdiction over the organization.

Board Report and Order: May 9, 1955 (4 pp.)—dismissed petition on above grounds with Member Coddair dissenting for same reasons as in the ASC case, previously summarized.

Record pages: 162.

*Washington Pension Union (Docket No. 114-55)*

Petition filed: December 29, 1954. Attorney General: Herbert Brownell, Jr.

Hearings: March 30, 1955–March 12, 1962. Hearing transcript: 4796.

Place: Seattle, Washington; Washington, D.C.

Recommended Decision: August 30, 1956 (66 pp.). By: Harry P. Cain, Member.

Report and Order: April 14, 1959 (50 pp.)—found WPU to be a Communist front.

Remand: Court of Appeals, January 8, 1962, for findings concerning the alleged dissolution of the group.

Board Report on Remand: June 20, 1962 (11 pp.)—found WPU dormant since August 31, 1961, but no permanent termination of its existence and obligation to register, and original Board Order unaffected by its situation.

Board Order became final June 6, 1963, when Court of Appeals dismissed appeal.

Modified Report: January 23, 1968, pursuant to P.L. 90-237 (January 2, 1968).

Record pages: 5958.

*California Labor School (Docket No. 115-55)*

Petition filed: March 31, 1955. Attorney General: Herbert Brownell, Jr.

Hearings: December 5, 1955–April 16, 1962. Hearing transcript: 2763 pp.

Place: San Francisco, California.

Recommended Decision: March 26, 1957 (49 pp.). By: Francis A. Cherry, Board Member.

Board Report and Order: May 21, 1957 (52 pp.)—found the CLS to be a Communist front.

Remand: Court of Appeals, March 3, 1962, for findings concerning CLS's alleged dissolution.

Board Report on Remand: June 20, 1962 (10 pp.)—found CLS dormant since mid-1957, but no termination of such permanence as to affect original Board Order.

Board Order became final May 23, 1963, when Court of Appeals denied respondent's motion to vacate order and dismiss petition.

Modified Order: January 23, 1968, pursuant to P.L. 90-237 (January 2, 1968).

Record pages: 3132.

*American Peace Crusade (Docket No. 117-56)*

Petition filed: August 1, 1955. Attorney General: Herbert Brownell, Jr.

Hearings: Nov. 1, 1955–Feb. 12, 1962. Hearing transcript: 842 pp.

Place: Washington, D.C.

Recommended Decision: December 28, 1956 (31 pp.). By: Thomas J. Herbert, Chairman.

Board Report and Order: July 26, 1957 (34 pp.)—found APC to be a Communist front.

Modified Report on Reconsideration: December 30, 1957 (34 pp.). Reaffirmed original Order, after striking testimony of one



witness on motion of former administrative secretary for APC as intervenor.

Remand: Court of Appeals, January 8, 1962—for further hearings to determine if claimed dissolution of APC as of September 25, 1955, would affect Board Order.

Report on Remand: July 6, 1962 (7 pp.)—found no change in APC subsequent to July 26, 1957, that would affect Board's original Order.

Second Remand: Court of Appeals, June 6, 1963—with instructions to hold the case in indefinite abeyance.

Record pages: 1274.

*National Negro Labor Council (Docket No. 118-56)*

Petition filed: September 28, 1955. Attorney General: Herbert Brownell, Jr.

Hearing: December 9, 1955. Hearing transcript: 6 pp.

Place: Washington, D.C.

Attorney General, August 1, 1957, filed motion for dismissal of petition. He agreed that no organization may defeat the registration requirement by dissolution, but held that further proceedings would not be in the public interest because investigation revealed that NNLC had dissolved after the petition was filed, was therefore, no longer a threat, and proceedings would be lengthy, expensive and disclose some elements of the Government's intelligence network.

Board Order: September 23, 1957, dismissed petition without prejudice in response to motion of Attorney General.

Record pages: 199.

*Colorado Committee to Protect Civil Liberties (Docket No. 120-57)*

Petition filed: August 9, 1956, Attorney General: Herbert Brownell, Jr.

Hearings: July 16, 1957–March 2, 1962. Hearing transcript: 322 pp.

Place: Denver, Colorado and Washington, D.C.

Recommended Decision: October 1, 1957 (19 pp.). By: James R. Duncan, Board Member.

Board Report and Order: April 15, 1959 (20 pp.)—found CCPCL to be a Communist front.

Remand: Court of Appeals, January 8, 1962—for findings concerning changes in CCPCL's existence and activities subsequent to April 15, 1959, which would affect Board Order.

Board Report on Remand: July 30, 1962. Recommended that Court fix a definite time within which further evidence of alleged dissolution should be taken and, failing such evidence, deny respondent's motion to dismiss petition and vacate Board Order.

Remand: Court of Appeals, June 6, 1963—with instructions that Board hold the case in indefinite abeyance.

Record pages: 539.

*Connecticut Volunteers for Civil Rights (Docket No. 121-57)*

Petition filed: August 9, 1956. Attorney General: Herbert Brownell, Jr.

Hearings: June 18, 1957–June 19, 1957. Hearing transcript: 255 pp.

Place: Hartford, Connecticut.

Recommended Decision: October 4, 1957 (16 pp.). By: Thomas J. Donegan, Board Member.

Board Report and Order: April 14, 1959 (16 pp.)—found CVCR to be a Communist front.

Order became final on failure of respondent to appeal.

Modified Report: January 23, 1968, pursuant to P.L. 90-237 (January 2, 1968).

Record pages: 428.

*Save Our Sons Committee (Docket No. 122-57)*

Petition filed: August 9, 1956. Attorney General: Herbert Brownell, Jr.

Hearings: None.

On August 1, 1957, Attorney General filed a motion to dismiss the petition without prejudice on the grounds the SOSC was dissolved and it would not be in the public interest to hold further proceedings.

Board Order: September 20, 1957—granted motion of Attorney General to dismiss the petition without prejudice.

Record pages: 51.

*California Emergency Defense Committee (Docket No. 123-57)*

Petition filed: October 1, 1956. Attorney General: Herbert Brownell, Jr.

Hearings: March 1, 1957–May 6, 1957. Hearing transcript: 574 pp.

Place: Los Angeles and San Francisco, California.

Recommended Decision: September 26, 1957 (25 pp.). By: James R. Duncan, Board Member.

Board Report and Order: April 14, 1959 (29 pp.)—found CEDC to be a Communist front.

Order became final when organization failed to appeal.

Modified Report: January 23, 1968, pursuant to P.L. 90-237 (January 2, 1968).

Record pages: 809.

*Committee to End Sedition Laws (Docket No. 124-57)*

Petition filed: October 1, 1956. Attorney General: Herbert Brownell, Jr.

Hearings: June 18, 1957 and July 2, 1957. Hearing transcript: 943 pp.

Place: Los Angeles, California.

The Attorney General presented two witnesses in the hearings. On July 30, 1957, he petitioned the Board to strike the testimony of one of the two, and on July 31 to dismiss the petition

on the grounds the testimony of the remaining witness was not sufficient to meet the burden of proof required.

Board Order: September 17, 1957—granted Attorney General's motion to dismiss petition without prejudice.

Record pages: 1006.

*Advance and Burning Issues (Docket No. 126-63)*

Petition filed: January 10, 1963. Attorney General: Robert F. Kennedy.

Hearings: September 30, 1963–July 29, 1965. Hearing transcript: 2552 pp.

Place: New York City.

Recommended Decision: September 17, 1964 (104 pp.). By: Robert L. Irwin, Hearing Examiner.

Board Order: September 10, 1965, placed proceeding in status of indefinite abeyance pending further order of the Board. This was in response to August 16, 1965, motion of Michael Zagarell, former president of Advance, through his attorney, on the grounds that the organization had been dissolved on March 3, 1965.

Record pages: 3146.

*W. E. B. DuBois Clubs of America (Docket No. 127-66)*

Petition filed: March 4, 1966. Attorney General: Nicholas deB. Katzenbach.

On April 26, 1966, DuBois Clubs brought a civil suit in the District Court, asking the court to declare the Communist-front registration provisions of the Act unconstitutional and to enjoin the Attorney General and the Board from enforcing them.

A three-judge court, on May 5, 1967, dismissed the complaint because the DCA had failed to exhaust their administrative remedies, but stayed further Board proceedings pending Supreme Court disposition of the case.

Supreme Court, on December 11, 1967, affirmed the ruling of the lower court and, on January 22, 1968, denied the DCA's request for a rehearing.

Board set the case for hearing on February 5, 1968. Subsequent motions by the DCA, unopposed by the Attorney General, delayed proceedings until March 19, 1968, when the Attorney General filed a motion that the hearings be continued until after the Supreme Court had decided the *Kolod* case.

Board Order: March 21, 1968, granted this unopposed motion.

On June 15, 1970, the *Alderman* (originally *Kolod*) case having been decided 394 (U.S. 165), the Board ordered that hearings on the DuBois Clubs case begin in New York City on July 14, 1970.

On July 7, the Attorney General moved that the hearings be continued indefinitely because DCA, on February 3, 1970, had announced that it was going out of existence, preliminary investigation indicated it had probably ceased operations and additional time and investigation was needed to determine the facts

of its situation. Respondent interposed no objection to this motion.

On July 10, the Board ordered that hearings be continued pending its further order.

*Center for Marxist Education (Docket No. 128-71)*

Petition filed: July 14, 1970. Attorney General: John N. Mitchell.

*Young Workers Liberation League (Docket No. 129-71)*

Petition filed: July 14, 1970. Attorney General: John N. Mitchell.

## SUMMARY

### *Disposition of Front Cases*

Final Board Orders in effect-----	7
Cases in abeyance before Board-----	3
Cases dismissed by Court Order-----	2
Cases dismissed on petition of A.G.-----	6
Cases dismissed by Board for failure of A.G. to prosecute--	2
Cases dismissed by Board for failure of A.G. to obtain jurisdiction -----	2
Cases still to be heard-----	3
Total -----	25

### *Communist-Infiltrated Organization Cases*

*International Union of Mine, Mill and Smelter Workers (Docket No. 116-56 and Docket No. 125-62)*

Petition filed: July 28, 1955. Attorney General: Herbert Brownell, Jr.

Hearings: February 25, 1957-March 10, 1961. Hearing transcript: 12469 pp.

Place: Washington, D.C.

Recommended Decision: December 26, 1961 (97 pp.). By: Francis A. Cherry, Board Member.

Board Report and Order: May 4, 1962 (98 pp.)—found IUMMSW to be a Communist-infiltrated organization.

The IUMMSW on May 31, 1962, filed a petition with the Board (Docket No. 125-62) for a determination, pursuant to section 13A(b) of the Act, that it was no longer a Communist-infiltrated organization.

Board Report and Order: December 10, 1963 (36 pp.)—dismissed this Union petition as unsubstantiated.

Remand: November 1, 1965, Court of Appeals, on Union's appeal from both of above Board orders, for consideration of Union's status in the light of a reasonably current record.

February 15, 1966, both parties stipulated in a joint motion that if the Attorney General had not filed notice that he intended to proceed with the case by June 10, 1966, they would

request the Board to vacate its order against the Union and dismiss the petitions.

Board Orders: June 16, 1966, vacated May 4, 1962, Board Order against Union and dismissed both Attorney General's and Union's petitions in response to joint motion of parties dated June 13, 1966.

Record pages: 13259.

*United Electrical, Radio and Machine Workers of America*  
(Docket No. 119-56)

Petition filed: December 20, 1955. Attorney General: Herbert Brownell, Jr.

Hearings: May 13, 1957-July 12, 1957. Hearing transcript: 967.

Place: New York City.

Hearings were originally delayed by UE suit to enjoin proceedings, terminated April 6, 1956, by Court of Appeals decision upholding lower court denial of suit. Further delay was then caused by the first remand of the Communist Party case to the Board.

Hearings, begun in May 1957 after Board disposition of remand of Communist Party case, were recessed July 12, 1957, to allow UE appeal to Board on new motions attacking its jurisdiction. Board had denied these motions when Communist Party case was remanded a second time, causing further suspension of hearings.

Following Board's Report and Order on second remand in the Communist Party case (February 9, 1959), hearings were set for March 29, 1959.

Attorney General, on March 20, 1959, filed motion to dismiss petition on grounds that key witnesses essential to establish allegations in petition were unavailable because of death, physical incapacity and other factors. UE assented to motion March 24, 1959.

Board Order: March 30, 1959, dismissed petition.

Record pages: 1672.

### *Individual Communist Party Membership Cases*

Forty-four such cases were filed by Attorney General Robert F. Kennedy during the years 1962-1965.

Seven such cases were filed by Attorney General Ramsey Clark on July 1, 1968.

Five such cases were filed by Attorney General John N. Mitchell on March 12, 1969, and

Ten more on November 20, 1969.

A list of the names of the respondents, docket numbers, and dates of Board orders, if issued in these cases, is attached (see pp. 34 a-e).

Proceedings in all of the 44 cases referred by Attorney Gen-



eral Kennedy resulted in findings of Communist Party membership and orders for respondents to register as such.

Appeals of two of these respondents, William Albertson and Roscoe Quincy Proctor (concerning whom Board Reports and Orders were issued on October 29, 1962, and January 18, 1963, respectively), were filed on December 26, 1962, and consolidated for review. It was subsequently stipulated by parties that all 44 membership cases would be determined by the Albertson-Proctor case.

Court of Appeals, April 23, 1964, affirmed Board orders relating to Albertson and Proctor.

Supreme Court, November 15, 1965, set aside Board orders on Fifth Amendment grounds.

Court of Appeals, January 7, 1966, ordered Board to vacate all outstanding individual membership orders.

Board Orders: January 28, 1966, vacated the 43 individual membership orders then outstanding. Earlier, on May 12, 1965, the Board had issued an order vacating its Report and Order of December 4, 1963, concerning Thomas Nabried and dismissing the petition in his case. This action had been taken pursuant to an April 6, 1965, order of the Court of Appeals finding the issue moot because of Nabried's death.

### *Subsequent Membership Cases*

The 22 individual membership petitions filed by Attorneys General Clark and Mitchell were submitted pursuant to section 13(a) of the Act as amended by P.L. 90-237. This amendment eliminated the requirement that persons found by the Board to be Communist Party members register themselves with the Attorney General, providing instead that the Board merely keep a record of all persons concerning whom it had made membership findings.

The Board heard all cases submitted by Attorney General Clark except one (Sargeant Caulfield, Docket No. I-51-69) in which illness of a witness prevented it from proceeding.

Appeals of three of these respondents—Simon *Boorda*, Robert *Archuleta*, and Wayne Dallas *Holley*—were consolidated for judicial review and it was again stipulated that all cases would be determined by the outcome of their appeal.

The Board had heard 3 of the 15 membership cases submitted by Attorney General Mitchell when, on December 12, 1969, in its decision on the Boorda, Archuleta and Holley cases, the Court of Appeals found section 13(g)(2) of the Act "contrary to the First Amendment" and remanded the cases to the Board with instructions to dismiss the petitions.

The Court subsequently denied the Government's request for a rehearing en banc.

The Supreme Court, April 20, 1970, denied certiorari.

Board Orders: June 10 and July 7, 1970, dismissed petitions pursuant to June 2 order of the Court of Appeals.

# INDIVIDUAL COMMUNIST PARTY MEMBERSHIP PETITIONS

Docket Number	Name	Petition Filed	Report and Order
I- 1-62	William Albertson.....	5-31-62	10-29-62
I- 2-62	Miriam Friedlander.....	5-31-62	11- 2-62
I- 3-62	Arnold Samuel Johnson.....	5-31-62	11-27-62
I- 4-62	William L. Patterson.....	5-31-62	12-18-62
I- 5-62	Betty Gannett Tormey.....	5-31-62	12-19-62
I- 6-62	Louis Weinstock.....	5-31-62	1-16-63
I- 7-62	Dorothy Healey.....	5-31-62	12-18-62
I- 8-62	Albert Jason Lima.....	5-31-62	1-17-63
I- 9-62	Burt Gale Nelson.....	5-31-62	1-21-63
I-10-62	Roscoe Quincy Proctor.....	5-31-62	1-18-63
I-11-63	Samuel Krass Davis.....	12- 6-62	3- 8-63
I-12-63	Claude Mack Lightfoot.....	12- 6-62	3- 5-63
I-13-63	Flora Hall.....	12- 6-62	4-26-63
I-14-63	Samuel Kushner.....	12- 6-62	4-26-63
I-15-63	George Aloysius Meyers.....	4-11-63	12- 4-63
I-16-63	Thomas Nabried.....	4-11-63	12- 4-63
I-17-63	Mildred McAdory Edelman.....	4-11-63	12- 4-63
I-18-63	Irving Potash.....	4-11-63	12- 4-63
I-19-63	William Wolf Weinstone.....	4-11-63	12- 4-63
I-20-63	Mortimer Daniel Rubin.....	4-11-63	12- 4-63
I-21-63	John William Stanford, Jr.....	6-13-63	12-20-63
I-22-63	Benjamin Dobbs.....	6-13-63	12-20-63
I-23-63	William Cottle Taylor.....	6-13-63	12-20-63
I-24-63	Frances Gabow.....	6-13-63	12-20-63
I-25-63	Aaron Libson.....	6-13-63	12-20-63
I-26-63	Lionel Joseph Libson.....	6-13-63	5-21-64
I-27-63	James Joseph Tormey.....	6-13-63	9-28-64
I-28-64	Michael Saunders.....	11-19-63	11-13-64
I-29-64	Daniel Lieber Queen.....	11-19-63	11-13-64
I-30-64	Ralph William Taylor.....	11-19-63	5- 1-64
I-31-64	Betty Mae Smith.....	11-19-63	5- 1-64
I-32-64	Marvin Joel Markman.....	11-19-63	1-13-65
I-33-64	Meyer Jacob Stein.....	11-19-63	1-13-65
I-34-64	Norman Haaland.....	11-19-63	7-22-64
I-35-64	Benjamin Gerald Jacobson.....	11-19-63	7-22-64
I-36-64	Milford Adolf Sutherland.....	11-19-63	7-22-64
I-37-64	Donald Andrew Hamerquist.....	11-19-63	7-22-64
I-38-65	Hyman Lumer.....	9-30-64	7-30-65
I-39-65	Elmer Charles Kistler.....	9-30-64	7-30-65
I-40-65	Ralph Nelson.....	9-30-64	7-30-65
I-41-65	Otis Archer Hood.....	9-30-64	7-30-65
I-42-65	Lewis Martin Johnson.....	9-30-64	7-30-65
I-43-65	Edward S. Teixeira.....	9-30-64	7-30-65
I-44-65	Anne Burlak Timpson.....	9-30-64	7-30-65
I-45-69	Robert Archuleta.....	7- 1-68	11-21-68

Docket Number	Name	Petition Filed	Report and Order
I-46-69	Wayne Dallas Holley	7- 1-68	11-21-68
I-47-69	Anna Pastor Laconich	7- 1-68	9-24-69
I-48-69	Ruth Beer	7- 1-68	9-24-69
I-49-69	Scarlett Ann Patrick	7- 1-68	5-23-69
I-50-69	Simon Boorda	7- 1-68	11-15-68
I-51-69	Sargeant Caulfield	7- 1-68	
I-52-69	Clifford Fried	3-12-69	8-14-69
I-53-69	David Utter Mares	3-12-69	8-14-69
I-54-69	Kenneth William Applehans	3-12-69	8-15-69
I-55-69	Juan Carlos Lopez	3-12-69	
I-56-69	Larry Reynold Oberg	3-12-69	
I-57-70	Admiral George Dawson	11-20-69	
I-58-70	Leo Baefsky	11-20-69	
I-59-70	Shirley Kessler	11-20-69	
I-60-70	Alice Kesner Leuchtag	11-20-69	
I-61-70	Hans Richard Leuchtag	11-20-69	
I-62-70	Ira Cohen	11-20-69	
I-63-70	James Rufus Fisher	11-20-69	
I-64-70	Joseph Carl Fabrizio, Jr	11-20-69	
I-65-70	Jo Anne Elaine Gerber	11-20-69	
I-66-70	Frank I. Kinces	11-20-69	

*Petitions Submitted by Attorneys General*

J. Howard McGrath	1 Communist-action case.
James P. McGranery	None, The Communist Party case having been submitted to the Board no additional petitions could be filed until such time as the Board decided the case. Inasmuch as the Board did not reach this conclusion during Mr. McGranery's tenure, he could not file petitions.
Herbert Brownell, Jr	21 Communist-front cases. 2 Communist-infiltrated cases.
William P. Rogers	0
Robert F. Kennedy	44 Individual Membership cases. 1 Communist-front case.
Nicholas deB. Katzenbach	1 Communist-front case.
Ramsey Clark	7 Individual Membership cases.
John N. Mitchell	15 Individual Membership cases. 2 Communist-front cases.

*Present Work Status*

As previously indicated, the Board presently has authority to hold hearings on Communist-action, Communist-front, and Communist-infiltrated organizations and also to hear appeals of such groups for a revision of findings it has made with respect to them.

At the present time, the Board has before it no appeals from organizations concerning which it has made findings.

It has no petitions from the Attorney General concerning Communist-action organizations. After completion of the Board's proceedings in the Communist Party case, no additional Communist-action group petitions could be filed with the Board under the existing statute except under one of the following conditions, none of which has materialized:

1. The U.S.S.R. should reject the Communist Party, U.S.A., as the world Communist movement's action organization in this country and initiate or adopt a new "party" in its place.

2. Another Communist-action organization in this country, in addition to the CPUSA, should be brought under Soviet control.

The Board has before it no petitions from the Attorney General concerning Communist-infiltrated organizations.

Three petitions from the Attorney General concerning Communist-front organizations are before the Board—those relating to the DuBois Clubs, the Center for Marxist Education, and the Young Workers Liberation League.

It is not known whether the Department of Justice, after completing its current investigation into the status of the DuBois Clubs, will proceed with the case before the Board.

The Board has scheduled hearings on the Center for Marxist Education to begin in New York City on October 13, 1970. It expects to set a date for the initiation of hearings in the Young Workers Liberation League case as soon as the hearings on the Center for Marxist Education are completed.

\* \* \* \* \*

**SIGNIFICANT COURT DECISIONS**

*Communist Party v. Subversive Activities Control Board*, 361 U.S. 1 (June 5, 1961)

\* \* \* \* \*

*Background:* As indicated in the summary of cases (pp. 5141, 5142), the Board, after completing the hearings and analyzing the testimony and evidence in the Communist Party case, issued a report and order that the Party register on April 20, 1953. On appeal, the case was twice remanded to the Board—the first time by the Supreme Court three years later, in April 1956, and the second time by the Court of Appeals almost two years after that, in January 1958. In each case the remands resulted in modified Board reports and orders, the latest dated February 9,

1959, affirmed by the Court of Appeals on July 30, 1959. The Supreme Court granted certiorari on February 5, 1960 (361 U.S. 951).

*The Decision:*

On June 5, 1961, the Court ruled on the allegations and claims made by the Communist Party in its appeal from the Court of Appeals decision affirming the latest Board order. Justice Frankfurter delivered the majority opinion for himself and Justices Clark, Harlan, Whittaker, and Stewart.

The first half of the lengthy, 112-page decision dealt with Party claims concerning procedural points, the construction and application of the Act to the Party and the Board's findings of fact. These were of secondary importance, but it is worth noting that all of the Communist Party's claims in this area were rejected.

The remainder of the decision dealt with the constitutional issues raised by the Party. These claims were six in number:

(1) The Act, by outlawing the Party in effect, is a bill of attainder.

(2) It restrains freedom of expression and association in violation of the First Amendment.

(3) It also violates the self-incrimination clause of the Fifth Amendment.

(4) It violates due process by legislative pre-determination of facts requiring Party registration.

(5) The Act is unconstitutionally vague in several respects.

(6) The SACB is so necessarily biased against the Communist Party that the Party could not obtain a fair hearing.

In rejecting the *bill of attainder* claim, the Court pointed out that the Act does not regulate specified organizations but certain designated activities in which an organization may or may not engage; that the registration provisions are keyed to continuingly contemporaneous activities which Congress has found "potentially dangerous to the national interest" and which must therefore be controlled, and finally, that the clearly expressed purpose of the law was not to destroy the Party or catch it between two fires, as the Party claimed, but "to require the Communist movement in the United States to operate in the open rather than underground" and "to expose the Communist movement and to protect the public against innocent and unwitting collaboration with it."

The Court also pointed out that if the Party "should at any time choose to abandon these activities, after it is once registered pursuant to § 7, the Act provides adequate means of relief." It then stated:

So long as the incidence of legislation is such that the persons who engage in the regulated conduct, be they many or few, can escape regulation merely by altering the course of their own present activities, there can be no complaint of an attainder.



In rejecting the Party's *First Amendment* claims, the Court pointed out that in a number of situations in which "secrecy or the concealment of associations has been regarded as a threat to public safety and to the effective, free functioning of our national institutions." Congress had met this threat by the enactment of disclosure statutes which the Court had upheld as constitutional. It mentioned as specific examples the Federal Corrupt Practices Act, the Federal Regulation of Lobbying Act, and the Foreign Agents Registration Act.

The Court also pointed out that the Act did not attach the registration requirement to speech but to foreign domination and "extensive, long-continuing organizational . . . activity" in behalf of the world Communist movement.

The Court concluded:

Where the mask of anonymity which an organization's members wear serves the double purpose of protecting them from popular prejudice and of enabling them to cover over a foreign-directed conspiracy, infiltrate into other groups, and enlist the support of persons who would not, if the truth were revealed, lend their support . . . it would be a distortion of the First Amendment to hold that it prohibits Congress from removing the mask.

In regard to the Party's *Fifth Amendment* claim, the Court held that this issue had been prematurely raised because the duties imposed on the Party by the registration provisions "will not arise until and unless the Party fails to register." The Court pointed out that it could not know whether the Party's officers would invoke the Fifth Amendment when ordered to register, or whether the Attorney General, should they invoke it, would honor their claim of privilege. The issue was therefore not adjudicable at the time.

Rejecting the Party's claims on the *Due Process* issue, the Court held that the Congressional findings concerning the nature of the world Communist movement, although not open to re-examination by the Board, did not violate due process because they were no more than definitions of terms, referents which served to identify the world Communist movement and the (unnamed) foreign government which controlled it. Left open to Board determination was the identity of that government. Concerning the Board findings on this point, the Court said:

The Board, construing the statute, concluded that that foreign government was the Soviet Union. We affirm that construction.

The Court also pointed out that the government presented evidence to the Board showing that the Soviet Union substantially dominated or controlled the Communist Party, and that the Party had an opportunity to rebut this showing but failed to do so to the Board's satisfaction. Thus, none of the operative facts leading to the requirements of registration were "predetermined."

Similarly, the Court held that the Congressional findings

about the existence of a Communist network, movement and organization in the United States, and individuals who knowingly and willfully take part in it, would not deprive the Party of the fair hearing required by due process. Still open to litigation before the Board was the question "Whether the particular organization against whom the Attorney General files a petition . . . operates primarily to advance" the objectives of the world Communist movement. On this point, "the legislation 'predetermines' nothing."

Regarding the other two issues raised by the Party, the Court said they had been "carefully considered," but did not merit "detailed discussion."

Separate dissenting opinions were filed by Chief Justice Warren and by Justices Douglas, Black and Brennan.

The Chief Justice found "four serious errors of a nonconstitutional nature" in the record of the case and took the position that it should be decided on them. They concerned memoranda and testimony of witnesses and the interpretation and application of the statute. He was the only member of the Court to take this position. The Chief Justice also said that he joined with Justice Brennan in his dissent on the Fifth Amendment issue.

Justice Douglas, in his separate dissenting opinion, agreed with Justice Frankfurter in rejecting all the procedural issues raised by the Party and also in upholding the constitutionality of the Act in face of the Party's claim that it violated the First Amendment. He supported, however, the Party's view that the statute was violative of the Fifth Amendment.

Justice Black, in his separate dissenting opinion, agreed with Justice Douglas on the Fifth Amendment issue. He also upheld all of the Party's other claims against the Act, finding it a bill of attainder, violative of due process and also of the First Amendment.

Justice Brennan dissented in part, stating in his opinion that he agreed with Justices Frankfurter and Douglas in upholding the constitutionality of the Act against First Amendment claims. On the Fifth Amendment, however, he took the position that one issue was properly adjudicable at the time, that of the right of the Party's officers to invoke the privilege. He stated that on this issue he would hold the Act invalid.

\* \* \* \* \*

*Albertson and Proctor v. SACB, 382 U.S. 70 (November 15, 1965)*

\* \* \* \* \*

*Background:* The Communist Party refused to register with the Attorney General when the Board order against it became final. Each individual member of the Communist Party was then obliged under section 8 of the Act to register himself. When a member failed to register, the Attorney General was authorized to petition the Board for an order requiring him to do so.

Subsequent to the June 5, 1961 decision of the Supreme Court, during the years 1962, 1963, and 1964, Attorney General Robert F. Kennedy submitted 44 individual membership cases to the Board. All resulted in Board findings that the individual concerned was a member of the Party and a consequent order of the Board that he register. A number of the individuals against whom the Board first issued orders appealed and it was ultimately agreed that the disposition of all 44 cases would be determined by the outcome of the appeals of two of these individuals, Party officials William Albertson and Roscoe Quincy Proctor.

It should be pointed out that, in answer to the Attorney General's petition to the Board for orders for Albertson and Proctor to register, they had invoked the self-incrimination clause of the Fifth Amendment. Their claim was rejected by the Attorney General. When the Board held hearings on their cases, they did not appear to testify. When the Board issued its orders, they appealed them, again invoking the Fifth Amendment, in addition to challenging the constitutionality of the orders on several other points.

The Court of Appeals, guided primarily by the Supreme Court decision in the Communist Party case that the Fifth Amendment issue was not ripe for adjudication, affirmed the Board orders.

#### *The Decision:*

The Supreme Court, on November 15, 1965, in a unanimous decision written by Justice Brennan, reversed the Court of Appeals, holding that the Board orders concerning Albertson and Proctor "violate their Fifth Amendment privileges against self-incrimination."

Justice White did not take part in the decision, having served as Deputy Attorney General in 1961-62, a period when the Department of Justice had been involved in litigation concerning the Act.

The Supreme Court gave the following explanation as to why the Fifth Amendment issue was adjudicable in that stage of the individual membership cases, although it had not been in the Communist Party case—

the contingencies upon which the members' duty to register arises have already matured. . . . Petitioners asserted the privilege in their answers to the Attorney General's petitions; they did not testify at the Board hearings; they again asserted the privilege in the review proceedings in the Court of Appeals. In each instance the Attorney General rejected their claims. . . . Specific orders requiring petitioners to register have been issued. . . . and petitioners risk very heavy penalties if they fail to register.

The key factor in determining the position taken by the Supreme Court in this case was the existence of certain criminal statutes pertaining to violent overthrow of government and the establishment of a totalitarian dictatorship in the United States.

Referring to the registration of Albertson and Proctor, should they comply with the Board orders, the Court said:

Such an admission of membership may be used to prosecute the registrant under the membership clause of the Smith Act, 18 U.S.C. § 2385 (1964 ed.), or under § 4(a) of the Subversive Activities Control Act, 50 U.S.C. 783(a) (1964 ed.), to mention only two federal criminal statutes. *Scales v. United States*, 367 U.S. 203, 211. Accordingly, we have held that mere association with the Communist Party presents sufficient threat of prosecution to support a claim of privilege. *Patricia Blau v. United States*, 340 U.S. 159; *Irving Blau v. United States*, 340 U.S. 332; *Brunner v. United States*, 343 U.S. 918; *Quinn v. United States*, 349 U.S. 155.

Pursuant to section 8(a) of the Act, the Attorney General had established a form (IS-52a) for the registration of individual Party members. This form required the registrant to give the name of the organization of which he was a member, his name and aliases, the place and date of his birth, a list of offices he held in the organization and the duties thereof. Referring to the questions in this form, the Court said—

they are directed at a highly selective group inherently suspect of criminal activities. Petitioners' claims are not asserted in an essentially non-criminal and regulatory area of inquiry, but against an inquiry in an area permeated with criminal statutes, where response to any of the form's questions in context might involve the petitioners in the admission of a crucial element of a crime.

The Court took note of the fact that section 4(f) of the Act granted certain immunity to any officer or member of a Communist organization who registered under the Act. It held, however, that this was not sufficient to invalidate invocation of the self-incrimination privilege because "the immunity granted by § 4(f) is not complete. . . . it does not preclude any use of the information. . . . either as evidence or as an investigatory lead. . . . it does not preclude the use of the admission as an investigatory lead."

For the above reasons, the Court concluded that the individual self-registration requirement in the statute "is inconsistent with protection of the Self-Incrimination Clause" and that the Board orders that Albertson and Proctor register themselves as members of the Communist Party "violate their Fifth Amendment privileges against self-incrimination." The Court therefore reversed the judgment of the Court of Appeals and set aside the Board's orders.

\* \* \* \* \*

*Communist Party, U.S.A. v. United States of America*, 384 F.2d 957 (March 3, 1967)

\* \* \* \* \*

*Background:* The Board order for the Party to register became final on October 20, 1961, following the Supreme Court decision in the Communist Party case. The Party did not regis-



ter and was tried and convicted for failing to do so under an indictment returned in December 1961.

This conviction was reversed by the Court of Appeals on December 17, 1963, and remand to the District Court with instructions to grant a new trial if the government desired one or to enter a judgment of acquittal. The remand was based on the determination that the officers of the Party could invoke the self-incrimination privilege for themselves in refusing to register the Party and conviction would therefore have to depend upon proof of the availability of some other person(s) to effect the registration in their stead.

The Party was tried and convicted a second time under an indictment returned February 25, 1965. This decision was handed down on the Party's appeal from both convictions.

### *The Decision:*

The Court of Appeals based its reversal on three points.

First, the Supreme Court finding in *Albertson* that the area of Communist activities was not "an essentially non-criminal and regulatory area" but an area so "permeated with criminal statutes" that "mere association with the Communist Party presents sufficient threat of prosecution to support a claim of privilege."

Referring to one of the criminal statutes in this area alluded to by the Supreme Court, the Court of Appeals said that the Supreme Court's 1961 decision upholding the membership clause of the Smith Act in *Scales* created "the most ominous criminal implications for the Communist Party and all those associated in any way with it."

Second, the Court determined that the Communist Party was exempt from the long held "doctrine" that corporations and associations cannot invoke the Fifth Amendment privilege in refusing to produce records. Though this doctrine "has become almost an article of faith", the Court of Appeals said that the Supreme Court had held that an association could invoke the privilege if its character was such that it did not represent merely its members' common group interests but rather their purely private and personal interests (*United States v. White*, 322 U.S. 694). The Court of Appeals did not go so far as to hold that the Communist Party was such an organization but pointed out that no organization, whatever its nature, "can act other than through human instrumentalities."

Finally, the Court referred to Party members' "First Amendment rights to associate together as a political party." Because the Party is a political party, the Court said, the First Amendment was involved in the issue and "provides the distinct background against which the reach of the Fifth must be defined." It added:

In the areas of First Amendment concern, such as politics and religion where the association of people together is of the essence of meaningful observance and expression, we see no inescapable necessity to limit the reach of the Fifth Amendment by technical theories of artificial legal personality.



Therefore, because “for appellant to file a list to its members exposes every person on that list to a serious and substantial ‘threat of prosecution’” and because the record was devoid of any evidence of the availability of persons with the authority and capacity to register for the Party who were willing to do so, the party, having invoked the privilege, could not be compelled to register its members.

Senior Circuit Judge Prettyman, in his concurring opinion, reached the same conclusion as the majority but to use his words, “by a slightly different course of reasoning.”

Based on the Supreme Court holding in *Albertson* that the threat of prosecution under various criminal statutes gave rise to Fifth Amendment rights in Party members, he concluded that—

The constitutional protection is against compulsory incrimination of oneself. The means or method of compulsion are immaterial so long as there is compulsion. Therefore the members cannot be compelled to incriminate themselves in order to protect the Party against punishment. . . .

In this consideration it makes no difference whether the group as such is constitutionally protected or not. The individual is protected as an individual, no matter in what capacity. . . .

I think a person cannot be compelled to incriminate himself, either directly by his own action or by a second-, third- or fourth-hand action through some complicated intermediary process.

I emphasize that no part of my thought rests upon Fifth Amendment rights of the Party itself. I am concerned only with the Fifth Amendment rights of the individual members or agents.

\* \* \* \* \*

*Boorda-Archuleta-Holley v. SACB, December 12, 1969*

\* \* \* \* \*

*Background:* As a result of the *Albertson-Proctor* Supreme Court decision and the March 1967 Court of Appeals decision in the Communist Party case, the Congress amended the Subversive Activities Control Act in the fall of 1967 to eliminate the self-registration requirement for organizations and individuals and provide instead that the Board would keep a register of organizations and individuals concerning which it made findings. These amendments became law when signed by President Johnson on January 2, 1968 (P.L. 90-237).

Subsequently, on July 1, 1968, the then Attorney General submitted seven membership cases to the Board. Following hearings at which the Board found them to be Communist Party members, three respondents in these cases—Simon Boorda, Robert Archuleta, and Wayne Dallas Holley—all appealed the Board orders and their cases were consolidated for judicial review.

*The Decision*

The Court, in a decision written by Chief Judge Bazelon for himself and Judges James Skelly Wright and Carl McGowan, rejected the Party's claim that the Board had misconstrued the Act in not permitting, in each membership hearing, a redetermination that the Communist Party was a Communist-action organization.

The petitioners' constitutional claim against the Act, which the Court upheld, was in the Court's words, that the Act "is invalid because it provides for public disclosure of the fact of their membership in the Communist Party whether or not they intend to further any of the Party's illegal, as well as its legal and constitutionally protected aims."

Citing the Supreme Court decisions in *Scales*, *Noto*, *Robel*, and several other cases as its authority, the Court of Appeals concluded that "mere membership in the Communist Party is protected by the First Amendment."

It then quoted *DeJonge v. Oregon* to the effect that if rights are abused "legislative intervention can find constitutional justification only by dealing with the abuse. The rights themselves must not be curtailed." Therefore, since disclosures under Section 13(g)(2) attach solely to constitutionally protected rights (*i.e.*, to belong to the Communist Party), "the only remaining question is whether they operate to discourage or penalize the exercise of those rights."

The Court answered this question as follows:

We believe that they do. . . . we cannot assume that disclosure of an individual's membership in the Communist Party will not operate as a substantial burden upon the exercise of his right of free association.

For this reason, "the disclosure provisions of 13(g)(2) must fall as contrary to the First Amendment."

The Court added that it would be led to the same conclusion under the balancing test enunciated by the Supreme Court in the Communist Party case, that is, the weighing of the value to the public of the registration of Party members against the impediments which the registration would cause to "entire freedom of individual action."

On this point, the Court took the position that Section 13(g)(2) differed materially from Section 7, the Party registration provision upheld as constitutional by the Supreme Court, because asking the Party to "distinguish between those of its members who did and who did not share its illegal aims would be to ask the impossible," whereas because individual member petitions are on a case-by-case basis, "innocent members may easily be separated from guilty ones" (by the Government).

Thus, since the Government's interest in disclosure of the membership of innocent Communists is nil under the First Amendment, "the public interest in exposure of the guilty cannot be used to justify exposure of the innocent."

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THE FOLLOWING INFORMATION CONCERNING THE  
BOARD'S ACTIVITIES IS TAKEN FROM ITS TWENTY-  
SECOND REPORT

PROCEEDINGS UNDER THE ACT

COMMUNIST FRONT ORGANIZATIONS

*Center for Marxist Education and Young Workers Liberation  
League*

At the conclusion of a Board hearing held in New York City on February 8, 1972, the attorney for the Department of Justice stated that the Board's acceptance of documentary material on that day completed petitioner's presentation of evidence relating to two Communist-front organizations, the Center for Marxist Education (Docket No. 128-71) and the Young Workers Liberation League (Docket No. 129-71).

The Attorney General had petitioned the Board on July 14, 1970, pursuant to section 13(a) of the Act, for determinations that these two groups were Communist-front organizations. The Board had held a series of hearings in response to these petitions during the 1971 fiscal year.

On February 14, 1972, the Board issued orders that evidence on both sides in these two cases would be closed on February 25, 1972.

The order in the case of the Young Workers Liberation League provided that petitioner and respondent were to submit their proposed findings of fact and conclusions to the Board by March 15, 1972, and that, if oral argument were requested by either side, it would be heard on March 22.

There was no request for oral argument in this case. Petitioner submitted his proposed findings and conclusions on March 15. Respondent, failing to exercise its privilege, submitted no proposed findings or conclusions.

In the case of the Center for Marxist Education, the Board order provided that the parties would have until April 17, 1972, to submit their proposed findings and conclusions and that, if there were any requests for oral argument, they would be heard on April 24.

Petitioner submitted his proposed findings and conclusions to the Board on March 15, 1972. Respondent submitted no proposed findings.

The Board then undertook its study and review of petitioner's proposed findings and conclusions in these two cases in the light of the hearing record and began the preparation of its reports and orders, which had not been completed at the close of the fiscal year.

*W. E. B. DuBois Clubs of America (Docket No. 127-66)*

During fiscal year 1972, one other case was pending in the Board under the Communist-front provisions of the act. This case involved

the W. E. B. DuBois Clubs of America which had been originally submitted to the Board on March 4, 1966.

Hearings in this case, set by the Board shortly afterward, were originally delayed by a suit brought against the Board by the DuBois Clubs (eventually resolved in the Board's favor) and related court orders. They were subsequently delayed by unopposed motions of Attorneys General.

On July 10, 1970, after again ordering hearings in the case to begin, the Board granted an unopposed motion of the Attorney General that they be continued indefinitely. This motion was based on the fact that the DuBois Clubs had announced on February 3, 1970, that it was going out of existence and preliminary investigation indicated that it had probably ceased to operate under that name. Additional time was requested to determine the facts of the situation.

#### *Other Front Cases*

Four other cases involving the Communist-front provisions of the act were being held in the status of indefinite abeyance throughout the fiscal year 1972, pursuant to guidelines and specific instructions by the U.S. Court of Appeals for the District of Columbia Circuit.

These inactive cases involved organizations which had ceased activity prior to court consideration of Board orders directing them to register as fronts and, in one case, prior to issuance of a Board order.

The court has given the Board authority to reopen these cases and conduct such further proceedings as are appropriate if the organizations reactivate. The organizations are:

#### *Advance and Burning Issues (Docket No. 126-63)*

Pursuant to a petition of the Attorney General, filed January 10, 1963, evidentiary hearings were held on this organization during the period September 30, 1963, to January 14, 1964. On September 17, 1964, the hearing examiner filed with the Board a recommended decision finding the organization a Communist front. On September 10, 1965, the Board issued an order placing the proceeding in a status of indefinite abeyance. This order was based on precedent court rulings (see below-listed cases) and a motion of Michael Zagarell, former president of Advance, submitted through his attorney and unopposed by the Attorney General, that the organization had been dissolved on March 3, 1965.

#### *American Peace Crusade (Docket No. 117-56)*

Evidentiary hearings were held in March and April 1956, pursuant to petition of the Attorney General filed August 1, 1955. After consideration of the recommended decision of the then Chairman of the Board, who had heard the case, the Board on July 26, 1957, issued a report finding the organization a Communist front and ordered it to register as such. The Court of Appeals on June 6, 1963, instructed the Board to hold the case in a status of indefinite abeyance because of the dissolution of the organization in September 1955.

*Colorado Committee To Protect Civil Liberties (Docket No. 120-57)*

Evidentiary hearings held in July 1957, pursuant to petition filed August 9, 1956. Board report and order issued on April 15, 1959. Court of Appeals on June 6, 1963, instructed the Board to hold case in indefinite abeyance because of the dissolution of the organization in September 1956.

*Labor Youth League (Docket No. 102-53)*

Evidentiary hearings held November 30, 1953, to April 9, 1954, in response to petition filed April 22, 1953. Board report finding the group a Communist front and order to register issued February 15, 1955, while group was still active. After the Board found, in a report on remand dated June 20, 1962, that the organization had been dormant for over 5 years, the Court of Appeals on April 25, 1963, in the first decision of this type, instructed the Board to hold the case in indefinite abeyance. Ruling on an appeal by the Labor Youth League, the court refused to vacate or set aside the Board order. At the same time, however, it held that, because the group did not then exist, the Board's registration order should not be finalized:

if the group dissolves, the purposes of the act, and more, are accomplished \* \* \* the elimination of Communist fronts achieves the purpose of the statute, and so dissolution is in the public interest.

## EXECUTIVE ORDER 11605

On July 2, 1971, the President signed Executive Order 11605, amending Executive Order 10450 which was issued by President Eisenhower in 1953 to establish loyalty-security criteria for Federal employees. Executive Order 11605 involved the Board in the Federal personnel loyalty-security program by giving it full factfinding authority in relation to the Attorney General's list, which is one of the criteria used in determining an employee's or applicant's fitness for Federal service.

Technically, Executive Order 11605's impact on Executive Order 10450 was small, affecting only two of the 1953 order's 15 sections. Yet the changes it made in the security program were significant.

## CHANGES EFFECTED

I. It amended section 8 by the addition of the qualifying word, "knowing," in the clause concerning membership, affiliation or association with groups on the Attorney General's list. In doing so it afforded greater protection to persons affected by the security program.

II. It replaced section 12 in its entirety, thereby bringing about the following three major changes relating to the compilation of the list:

A. It takes away from the Attorney General the absolute authority he has held under all previous orders to place groups on the list. It provides instead that, upon petition of the Attorney General, the SACB will hold hearings to determine whether an organization falls into one of the categories of groups described in the order (totalitar-



ian, fascist, communist, etc.). Only if the Board so finds, can the Attorney General add a group to the list. This provision, by interposing hearings and findings of fact by an independent, quasi-judicial agency between the Attorney General and the formal designation of any group, provides greater protection against possible unjustified listing of any organization.

B. The Order gives the Board authority, again on petition of the Attorney General, to determine that organizations presently on the list no longer exist and also, on petition of any organization on the list or the Attorney General, to determine that a group on the list does not currently meet the standards for designation.

C. The types of organizations encompassed by the order are more precisely defined. Earlier Executive orders had defined organizations to be placed on the list by merely one word—"fascist," "communist," etc. (see p. 13).

(1) Executive Order 11605 provides, for example, that the Board may determine an organization to be "fascist" only if it finds that the organization—

engages in activities which seek by unlawful means the establishment of a system of government in the United States which is characterized by rigid one-party dictatorship, forcible suppression of the opposition, ownership of the means of production under centralized governmental control and which fosters racism.

(2) Similarly, it provides that the Board can determine that an organization is "communist" only if it—

engages in activities which seek by unlawful means the establishment of a government in the United States which is based upon the revolutionary principles of Marxism-Leninism, which interprets history as a relentless class war aimed at the destruction of the existing society and the establishment of the dictatorship of the proletariat, the government ownership of the means of production and distribution of property, and the establishment of a single authoritarian party.

Executive Order 11605 also directed the Board to issue appropriate regulations to implement the order's provisions.

#### *History of laws and executive orders affecting personnel security programs*

In 1939 Congress passed the Hatch Act, this country's first statute relating to the loyalty of Federal employees. Section 9A of this law, as amended in 1955, bars from Federal employment any person who—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

Two years later, Congress barred the use of appropriated funds to pay any person advocating, or belonging to a group advocating, violent overthrow of the Government, made it a felony for such persons to accept pay from appropriated funds, and appropriated money for the Department of Justice to investigate complaints of disloyalty on the part of Government employees and report its findings to Congress and the heads of the departments and agencies concerned.

To assist in this undertaking, Attorney General Francis Biddle advised in 1941 that membership in the Communist Party, the German-American Bund and seven other organizations would constitute questionable loyalty within the intent of Congress. By April 1942, he had so designated 47 organizations. The Interdepartmental Committee on Employee Investigations, created in February 1943 by Executive Order 9300 of President Franklin D. Roosevelt, distributed a list of these groups to all departments and agencies. This was the beginning of what is generally referred to today as the Attorney General's list.

In 1946, President Truman appointed a Temporary Commission on Employee Loyalty to study and recommend standards and procedures for investigation and disqualification or removal of disloyal or subversive persons. Based on its report and recommendations, he issued Executive Order 9835 on March 21, 1947. This order formally established the first Government-wide employee loyalty program and made the Attorney General's list an integral part of it. The order prescribed investigation of all Government employees and applicants for employment and their dismissal or rejection whenever "reasonable grounds exist for belief that the person involved is disloyal to the Government of the United States."\*

President Truman's 1947 Loyalty Order, as it was called, made agency heads responsible for the loyalty of their employees. It directed that loyalty boards be established in each agency and that the Civil Service Commission's Loyalty Review Board, created by the order—

shall currently be furnished by the Department of Justice the name of each foreign or domestic organization, association, movement, group or combination of persons which the Attorney General, after appropriate investigation and determination, designates as totalitarian, fascist, communist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

The order also provided that the Loyalty Review Board would distribute a list of all such groups designated by the Attorney General to all departments and agencies and that, in determining whether applicants or employees should be denied or removed from employment, the heads of departments and agencies should consider among other matters:

Membership in, affiliation with or sympathetic association with any foreign or domestic organization, association, movement, group or combination of persons, designated by the Attorney General (pursuant to the above-quoted paragraph).

The order did not direct that persons affiliated in any way with an organization on the Attorney General's list be automatically barred from Federal employment. It directed only that such affiliation, as

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\*This standard was changed in 1950 to the existence of "reasonable doubt as to the loyalty of the person involved."

well as other factors, be weighed in analyzing an employee's or applicant's loyalty to the United States.

On April 27, 1963, President Eisenhower, based on a recommendation of the Interdepartmental Committee on Internal Security of the National Security Council, issued Executive Order 10450 which superseded Executive Order 9835. The major change effected by this order was the broadening of standards used in determining fitness for Government service to include security as well as loyalty criteria. Executive Order 10450 provided for the continuation of the Attorney General's list. It was maintained in effect by Presidents Kennedy and Johnson—and also by President Nixon—until amended by President Nixon on July 2, 1971, by Executive Order 11605.

The signing of Executive Order 11605 by President Nixon in July 1971 was thus one of a series of steps taken over a period of 30 years to establish and improve upon Federal employee loyalty-security procedures that had been initiated by the Congress and administered and supported by the last six Presidents of the United States.

#### *SACB executive order rules of procedure*

Pursuant to section 2(j) of Executive Order 11605, the Board adopted regulations governing its proceedings under the order. These were published in the Federal Register of September 10, 1971, volume 36, No. 176, pages 18280-18281.

The regulations were designed to guarantee a full and fair hearing, with all elements of due process, to both parties in all Executive order proceedings. They provided that determinations made by the Board would be based on sworn testimony and documentary evidence received in open public hearings, that a complete stenographic transcript of all hearings would be maintained by the Board, and that each party to any proceeding would have the right to be represented by counsel, to offer oral or documentary evidence, submit rebuttal evidence and cross-examine opposition witnesses (see App. C).

#### *Legislative action*

On July 7, 1971, the Department of Justice sent to the Congress a draft bill to amend the Subversive Activities Control Act of 1950 which the Attorney General, in a covering letter, described as "a necessary complement" to Executive Order 11605. The Attorney General's letter stated that the order had been issued "in order to update the list of organizations which had been designated by the Attorney General" and that the enactment of the proposed legislation would provide "a sounder basis" for updating the list. It also pointed out that the "last consolidated list of such organizations was issued on November 1, 1955, and many of the organizations listed thereon are currently defunct."

The draft bill contained three provisions:

(1) It changed the name of the Subversive Activities Control Board to the "Federal Internal Security Board," a title appropriate to both its longstanding statutory functions and its new authority under the Executive order.

It made applicable to Board proceedings under the order :

(2) Sections of the Subversive Activities Control Act conferring subpoena and contempt power on the Board, and

(3) Sections of the act providing due process guarantees to parties concerned and granting affected organizations the right to appeal a Board determination to the U.S. Court of Appeals for the District of Columbia Circuit.

The draft proposal was introduced in the House on August 8, 1971, as H.R. 9669, and referred to the Committee on Internal Security.

The House committee, which had been conducting hearings on the administration of the Subversive Activities Control Act and the Federal personnel loyalty-security program since September 23, 1970, received testimony on H.R. 9669 prior to concluding these hearings on March 16, 1972. The Board, in response to a committee request for its views, submitted a statement supporting the measure.

On May 9, 1972, the committee reported the bill favorably with an amendment granting the President general authority to delegate to the Board the function of conducting hearings and making findings about the character of organizations "to be designated in furtherance of programs established to ascertain the suitability of individuals on loyalty and security grounds for admission to or retention in the civil service in the executive branch."

Following the signing of Executive Order 11605, it was claimed by some that, in conferring on the Board the additional authority contained in the order, the President had exceeded his constitutional power and usurped the legislative authority of Congress.

The House committee report on H.R. 9669 stated that the purpose of its above-mentioned amendment was to "resolve any controversy as to the propriety of the delegation and it does so by expressly authorizing the President to delegate the additional function to the Board."

The report pointed out that the Attorney General's list "was one of the principal points of focus" in the committee's lengthy investigation and hearings on the act and the security program in which representatives of over 25 cabinet departments and major independent agencies had testified. Summarizing the testimony of these witnesses the report stated :

with a few exceptions, all of the departments and agencies of whom inquiry had been made have supported the concept of the Attorney General's list, and regard it as helpful in the execution of the loyalty-security programs maintained by them . . . virtually all deplore the fact that there has been a failure in maintaining current designations, and for that reason found it unsatisfactory. Indeed, no designation has been made since October 20, 1955, and of the approximately 283 organizations now listed, all are defunct with the exception of 13, and three of the 13 have shown very little activity in the past few years. On the other hand, the evidence indicates that there are probably more than 100 front (and action) groups currently operating within the United States." . . . "several agencies have made clear they have neither the expertise nor the facilities for independently



proving the character of organizations, and have urged that the determination of such questions be centralized." (H. Rep. No. 92-1056, 92d Cong., 2d sess., pp. 15, 16).

The committee itself concluded that—

the maintenance of a current and reasonably comprehensive Attorney General's list of subversive organizations is indispensable to the efficient operation of the Federal Civilian Employee Loyalty and Security Program and

the failure to maintain a current Attorney General's list has been but one of several weaknesses in the maintenance of the loyalty-security program. . . . (Ibid., pp. 15, 17.)

On May 30, 1972, the House passed H.R. 9669 by a vote of 226-105.

#### *Senate action*

The Administration-proposed bill was introduced in the Senate on July 15, 1971, as S. 2294 and referred to the Subcommittee on Internal Security of the Senate Judiciary Committee. On June 29, 1972, the subcommittee held hearings on the House-passed version of the bill (H.R. 9669). In response to a request of the subcommittee for the Board's views on the bill, the Chairman testified in support of the measure. No action followed the hearings.

S. 2466 and S. Res. 163 were introduced in the Senate on August 8, 1971. The bill S. 2466 would make it unlawful for any employee of the Department of Justice or the Subversive Activities Control Board to carry out, or attempt to carry out, any of the duties, functions, or powers enumerated in Executive Order 11605.

S. Res. 163 was a resolution stating Senate disapproval of Executive Order 11605 as an attempt to usurp the legislative power conferred on Congress by the Constitution, as an infringement of the First Amendment rights of all Americans, and called on the President to revoke the order or amend it to conform with article I, section 1, and the first amendment to the Constitution.

The measures were referred to the Senate Judiciary Committee. Hearings on them were held on October 5 and 7, 1971, by that Committee's Subcommittee on Separation of Powers. The Chairman of the Board, in response to a subcommittee request, testified in the hearings, opposing the measures. On October 28, 1971, the subcommittee reported S. 2466 and S. Res. 163 to the Senate Judiciary Committee which took no action on them.

#### *Litigation concerning Executive Order 11605*

On September 1, 1971, the American Civil Liberties Union, acting on behalf of nine organizations, filed a class action suit in the Federal District Court in Washington, D.C., against the Attorney General and SACB (Civil No. 1776-71). The suit claimed that Executive Order 11605 violated Article I and the First, Fourth, Fifth, Sixth, Eighth, and Ninth Amendments to the Constitution. It asked the court to hold that section 2 of Executive Order 11605 unconstitutional in its entirety, to enjoin the Attorney General and the Board from proceeding under the order and the Attorney General from maintaining a list of subversive organizations under Executive



Orders 11605, 10450, and 9835. It also sought any other relief the court might deem appropriate and necessary.

The nine organizations for which the ACLU filed the suit were:

- Communist Party, U.S.A.
- Young Workers Liberation League
- Center for Marxist Education
- Socialist Workers Party
- Young Socialist Alliance
- American Servicemen's Union
- Industrial Workers of the World
- National Peace Action Coalition
- People's Coalition for Peace and Justice

The suit pointed out that three of these organizations, the Communist Party, Socialist Workers Party, and Industrial Workers of the World, were on the Attorney General's list.

The suit was dismissed on January 10, 1972, by Judge Gerhard A. Gesell of the District Court. His memorandum and order stated that the court had rejected the complainants' class action pleading as "purely atmospheric and insubstantial" and had considered the suit in the light of the plaintiff's separate individual claims.

He ruled that, inasmuch as no action had been taken against any of the nine complainants under the order, their suit was premature and the issues were not presently ripe for determination because "no factual context for decision is available" and the court should not consider claims that are "abstract, speculative and of no pressing immediacy."

The complainants have appealed the decision.

## PROCEEDINGS UNDER EXECUTIVE ORDER 11605

The Attorney General, pursuant to section 12(i) of Executive Order 10450, as amended by Executive Order 11605, submitted groups of petitions to the Board as follows during the fiscal year:

<i>Petitions</i>			
October 1, 1971-----	25	March 7, 1972-----	25
November 9, 1971-----	29	March 30, 1972-----	33
December 14, 1971-----	28	June 1, 1972-----	32
February 4, 1972-----	29		

These 201 petitions sought Board determinations that organizations presently on the Attorney General's list had ceased to exist.

At the close of the fiscal year the Board had completed hearings and filed with the Attorney General reports on 136 of these petitions.\* Following is a list of the names of organizations which were the subject of these petitions, together with the docket numbers and, when appropriate, the dates on which the Board found the organizations had ceased to exist.

Docket No.	Name	Ceased Existence
E72-001	Abraham Lincoln Brigade-----	October 1938.
E72-002	Abraham Lincoln School, Chicago, Ill. (a.k.a.: Chicago Workers School).	August 1948.
E72-003	Action Committee to Free Spain Now-----	November 1946.
E72-004	Alabama People's Educational Association (see Communist Political Association).	Pre-1945.
E72-005	American Association for Reconstruction in Yugoslavia, Inc.	February 1948.
E72-006	American Branch of the Federation of Greek Maritime Unions.	April 1960.
E72-007	American Christian Nationalist Party-----	1939.
E72-008	American Committee for European Workers' Relief (a.k.a.: American Council for European Workers' Relief).	October 1950.
E72-009	American Committee for the Settlement of Jews in Birobidjan, Inc. (a.k.a.: The American Committee for the Settlement of German Jewish Refugees in the USSR; AMBIJAN Committee for Emergency Aid to the Soviet Union; AMBIJAN Committee).	March 1951.
E72-010	American Committee to Survey Labor Conditions in Europe.	October 1952.
E72-011	American Council for a Democratic Greece, formerly known as the Greek American Council; Greek American Committee for National Unity.	December 1949.
E72-012	American Jewish Labor Council-----	June 1951.

\*Hearings on the remaining 65 and another group of 32 filed on July 17, 1972, were completed and reports submitted to the Attorney General by Oct. 13, 1972. On Oct 17, 1972, the Attorney General filed an additional group of 24 petitions with the Board. The appropriation statute for the Department of Justice and the Board for the fiscal year 1973 bars both agencies from using appropriated funds to implement Executive Order 11605. The statute became effective on Oct. 25, 1972. The Board has therefore taken no action on the petitions received on Oct. 17.

Docket No.	Name	Ceased Existence
E72-013	American League Against War and Fascism (a.k.a.: American League for Peace and Democracy).	1939.
E72-014	American League for Peace and Democracy...	February 1940.
E72-015	American National Labor Party.....	1939.
E72-016	American Nationalist Party (a.k.a.: American National Socialist League; American National Labor Party; Freunde Des Neuen Deutschland).	1939.
E72-017	American National Socialist League (a.k.a.: American National Socialist Party; American National Labor Party.)	1939.
E72-018	American National Socialist Party.....	1939.
E72-019	American Patriots, Inc.....	1939.
E72-020	American Peace Crusade.....	September 1955.
E72-021	American Peace Mobilization (a.k.a.: American People's Mobilization; American League Against War and Fascism; American League for Peace and Democracy).	February 1942.
E72-022	American Poles for Peace (a.k.a.: Polish American Committee for Peace; Current Events Forum).	September 1953.
E72-023	American Polish Labor Council.....	1947.
E72-024	American Polish League (a.k.a.: American Friends of Polish Unity; Polish-American League; American Polish Cultural Group; Polonia Club; American Polish Club).	November 1960.
E72-025	American Rescue Ship Mission (a project of the United American Spanish Aid Committee).	February 1941.
E72-026	American Committee for Spanish Freedom...	September 1947.
E72-027	American Committee for Yugoslav Relief, Inc. (a.k.a.: War Relief Fund of Americans of South Slavic Descent).	January 1949.
E72-028	American Council on Soviet Relations.....	January 1945.
E72-029	American Croatian Congress.....	May 1949.
E72-030	American-Russian Fraternal Society.....	1954.
E72-031	American Russian Institute, New York (a.k.a.: American Russian Institute for Cultural Relations With the Soviet Union).	September 1950.
E72-032	American Russian Institute, Philadelphia....	1947.
E72-033	American Slav Congress.....	November 1951.
E72-034	American Women for Peace.....	January 1954.
E72-035	American Youth Congress.....	January 1942.
E72-036	American Youth for Democracy.....	May 1949.
E72-037	Association of German Nationals (Reichs-deutsche Vereinigung).	September 1939.
E72-038	Ausland-Organization der NSDAP, Overseas Branch of Nazi Party.	December 1941.
E72-039	Baltimore Forum.....	January 1953.
E72-040	Benjamin Davis Freedom Committee.....	May 1955.
E72-041	Black Dragon Society (a.k.a.: Kokuryu Kai)...	December 1941.
E72-042	Boston School for Marxist Studies, Boston, Mass.	September 1949.
E72-043	Bridges-Robertson-Schmidt Defense Committee.	August 1953.
E72-044	Bulgarian American People's League of the United States of America.	May 1951.
E72-045	California Emergency Defense Committee....	March 1957.
E72-046	California Labor School, Inc.....	August 1957.
E72-047	Carpatho-Russian People's Society.....	1954.

Docket No.	Name	Ceased Existence
E72-048	Central Council of American Women of Croatian Descent (a.k.a.: Central Council of American Croatian Women; National Council of Croatian Women).	September 1949.
E72-049	Central Japanese Association (Beikoku Chuo Nipponjin Kai).	December 1941.
E72-050	Central Japanese Association of Southern California.	December 1941.
E72-051	Central Organization of the German-American National Alliance (Deutsche-Amerikanische Einheitsfront).	1942.
E72-052	Cervantes Fraternal Society-----	1954.
E72-053	China Welfare Appeal, Inc.-----	June 1954.
E72-054	Chopin Cultural Center-----	November 1967..
E72-055	Citizens Committee for Harry Bridges (a.k.a.: Citizens Victory Committee for Harry Bridges).	1942.
E72-056	Citizens Committee of the Upper West Side (New York City).	February 1947.
E72-057	Citizens Committee To Free Earl Browder----	May 1942.
E72-058	Citizens Emergency Defense Conference-----	August 1954.
E72-059	Citizens Protective League-----	1942.
E72-060	Civil Liberties Sponsoring Committee of Pittsburgh.	November 1950.
E72-061	Civil Rights Congress and Its Affiliated Organizations, including: (Veterans Against Discrimination of Civil Rights Congress of New York).	January 1956.
E72-062	Civil Rights Congress for Texas-----	1951.
E72-063	Columbians (a.k.a.: The Columbians, Inc.; Columbians Workers Movement, formerly known as The Citizens Forum).	June 1947.
E72-064	Comite Coordinador Pro Republica Espanola (a.k.a. Coordinating Committee for Spanish Republic).	June 1949.
E72-065	Comite Pro Derechos Civiles-----	June 1955.
E72-066	Committee for a Democratic Far Eastern Policy.	August 1952.
E72-067	Committee for Constitutional and Political Freedom.	July 1952.
E72-068	Committee for Nationalist Action-----	1948.
E72-069	Committee for Peace and Brotherhood Festival in Philadelphia.	August 1951.
E72-070	Committee for World Youth Friendship and Cultural Exchange.	August 1951.
E72-071	Committee for the Defense of the Pittsburgh Six.	November 1953.
E72-072	Committee for the Negro in the Arts-----	May 1954.
E72-073	Committee for the Protection of the Bill of Rights.	May 1952.
E72-074	Committee to Abolish Discrimination in Maryland (a.k.a.: Provisional Committee To Abolish Discrimination in the State of Maryland; Maryland Congress Against Discrimination; Congress Against Discrimination).	1948.
E72-075	Committee To Aid the Fighting South-----	1947.
E72-076	Committee To Defend Marie Richardson-----	1954.
E72-077	Committee To Defend the Rights and Freedom of Pittsburgh's Political Prisoners.	1954.
E72-078	Committee To Uphold the Bill of Rights (a.k.a.: Committee To Defeat the Smith Act).	July 1953.

Docket No.	Name	Ceased Existence
E72-079	Commonwealth College, Mena, Ark.....	January 1941.
E72-080	Congress Against Discrimination.....	1948.
E72-081	Congress of American Revolutionary Writers..	1935.
E72-082	Congress of American Women.....	October 1950.
E72-083	Congress of the Unemployed.....	May 1954.
E72-084	Connecticut Committee To Aid Victims of the Smith Act (a.k.a.: Connecticut Committee for Amnesty; Connecticut Committee To Aid Smith Act Victims).	March 1954.
E72-085	Connecticut State Youth Conference.....	1948.
E72-086	Council for Jobs, Relief and Housing (a.k.a.: Council for Jobs and Relief; Council for the Unemployed).	July 1952.
E72-087	Council for Pan-American Democracy.....	January 5, 1948.
E72-088	Council of Greek Americans (a.k.a.: Greek American Council).	October 11, 1956.
E72-089	Council on African Affairs.....	June 17, 1955.
E72-090	Croatian Benevolent Fraternity.....	1954.
E72-091	Dai Nippon Butoku Kai (Military Virtue Society of Japan or Military Art Society of Japan) (a.k.a.: North American Dai Nippon Butoku Kai; Southern California Kendo Association; Hokubei Butoku Kai).	December 7, 1941..
E72-092	Daily Worker Press Club.....	April 1948.
E72-093	Daniels Defense Committee.....	May 1955.
E72-094	Dennis Defense Committee.....	1948.
E72-095	Detroit Youth Assembly.....	January 1942.
E72-096	East Bay Peace Committee.....	September 18, 1951.
E72-097	Elsinore Progressive League (a.k.a.: Hilltop Community Center).	1957.
E72-098	Emergency Conference to Save Spanish Refu- gees (founding body of the North American Spanish Aid Committee.)	April 14, 1940.
E72-099	Everybody's Committee To Outlaw War.....	October 13, 1955.
E72-100	Families of the Baltimore Smith Act Victims..	September 1955.
E72-101	Families of the Smith Act Victims.....	February 1959.
E72-102	Federation of Italian War Veterans in the USA, Inc. (Associazione Nazionale Combattenti Italiani, Federazione degli Stati Uniti d'America).	1940.
E72-103	Finnish-American Mutual Aid Society.....	1954.
E72-104	Florida Press Educational League.....	October 21, 1943.
E72-105	Frederick Douglass Educational Center.....	February 1953.
E72-106	Freedom Stage, Inc.....	July 1954.
E72-107	Friends of the New Germany (Freunde des Neuen Deutschlands) (a.k.a.: German- American Bund (Amerikadeutscher Volks- bund)).	December 1941.
E72-108	Friends of the Soviet Union.....	1939.
E72-109	Garibaldi American Fraternal Society.....	1954.
E72-110	George Washington Carver School, New York City (a.k.a.: Carver School).	1948.
E72-111	German-American Bund (Amerikadeutscher Volksbund).	December 1941.
E72-112	German-American Republican League.....	1942.
E72-113	German-American Vocational League (Deut- sche-Amerikanische Berufsgemeinschaft).	1943.
E72-114	Guardian Club.....	1954.
E72-115	Hawaii Civil Liberties Committee.....	October 1950.



Docket No.	Name	Ceased Existence
E72-116	Heimusha Kai (a.k.a.: Nokubei Heieki Gimusha Kai, Zaihei Nihonjin, Heiyaku Gimusha Kai, and Zaihei Heimusha Kai (Japanese Residing in American Military Conscripts Association)).	August 1941.
E72-117	Hellenic-American Brotherhood.....	1954.
E72-118	Hinode Kai (Imperial Japanese reservists).....	December 1941.
E72-119	Hinomaru Kai (Rising Sun Flag Society—a group of Japanese war veterans).	October 1941.
E72-120	Hokubei Zaigo Shoke Dan (North American Reserve Officers Association).	December 1941.
E72-121	Hollywood Writers Mobilization for Defense..	October 1, 1945.
E72-122	Hungarian-American Council for Democracy..	August 1947.
E72-123	Hungarian Brotherhood.....	1954.
E72-124	Idaho Pension Union.....	September 24, 1961.
E72-125	Independent Party (Seattle, Wash.).....	November 1950.
E72-126	Independent People's Party.....	November 1950.
E72-127	International Labor Defense.....	April 1946.
E72-128	International Workers Order.....	August 31, 1954.
E72-129	Japanese Association of America.....	December 1941.
E72-130	Japanese Overseas Central Society (Kaigai Dobo Chuo Kai).	December 1941.
E72-131	Japanese Overseas Convention, Tokyo, Japan, 1940.	December 1941.
E72-132	Japanese Protective Association (recruiting organization).	December 1941.
E72-133	Jefferson School of Social Science, New York City.	December 1956.
E72-134	Jewish People's Committee.....	September 1945.
E72-135	Jewish People's Fraternal Order.....	1954.
E72-136	Jikyoku Inkai (The Committee for the Crisis).	1940.
E72-137	Harlem Trade Union Council (a.k.a.: Greater New York Negro Labor Council).	
E72-138	Joint Anti-Fascist Refugee Committee.....	
E72-139	Joint Council of Progressive Italian-Americans, Inc.	
E72-140	Joseph Weydemeyer School of Social Science, St. Louis, Missouri.	
E72-141	Kibei Seinen Kai (association of U.S. Citizens of Japanese ancestry who have returned to America after studying in Japan).	
E72-142	Kyffhaeuser also known as Kyffhaeuser League (Kyffhaeuser Bund), Kyffhaeuser Fellowship (Kyffhaeuser Kameradschaft).	
E72-143	Kyffhaeuser War Relief (Kyffhaeuser Kriegshilfswerk).	
E72-144	Labor Council for Negro Rights.....	
E72-145	Labor Youth League.....	
E72-146	League for Common Sense.....	
E72-147	League of American Writers.....	
E72-148	Lictor Society (Italian Black Shirts) (a.k.a.: Littorio Library; Library of the Lictor Association).	
E72-149	Macedonian-American People's League.....	
E72-150	Maritime Labor Committee to Defend Al Lannon.	
E72-151	Maryland Congress Against Discrimination...	
E72-152	Massachusetts Committee for the Bill of Rights.	
E72-153	Massachusetts Minute Women for Peace (not connected with the Minute Women of the U.S.A., Inc.).	

Docket No.	Name	Ceased Existence
E72-154	Maurice Braverman Defense Committee-----	
E72-155	Michigan Civil Rights Federation-----	
E72-156	Michigan Council for Peace-----	
E72-157	Michigan School of Social Science-----	
E72-158	Nanka Teikoku Gunyudao (Imperial Military Friends Group or Southern California War Veterans).	
E72-159	National Association of Mexican Americans (a.k.a.: Asociacion Nacional Mexico-Amer- icana).	
E72-160	National Blue Star Mothers of America (not to be confused with the Blue Star Mothers of America organized in February 1942).	
E72-161	National Committee for the Defense of Polit- ical Prisoners (a.k.a.: National Committee for People's Rights).	
E72-162	National Committee To Win Amnesty for Smith Act Victims.	
E72-163	National Committee To Win the Peace-----	
E72-164	National Conference on American Policy in China and the Far East.	
E72-165	National Council of Americans of Croatian Descent (a.k.a.: Union of American Cro- atians).	
E72-166	National Federation for Constitutional Liberties.	
E72-167	National Labor Conference for Peace-----	
E72-168	National Negro Congress-----	
E72-169	Washington Committee for Democratic Ac- tion.	
E72-170	Mario Morgantini Circle-----	
E72-171	National Committee for Freedom of the Press--	
E72-172	National Negro Labor Council-----	
E72-173	Nationalist Action League-----	
E72-174	Negro Labor Victory Committee-----	
E72-175	New Committee for Publications-----	
E72-176	Nichibei Kogyo Kaisha (The Great Fujii Theatre).	
E72-177	North American Committee To Aid Spanish Democracy (a.k.a.: Spanish Refugee Relief Campaign).	
E72-178	North American Spanish Aid Committee-----	
E72-179	North Philadelphia Forum-----	
E72-180	Northwest Japanese Association-----	
E72-181	Ohio School of Social Sciences-----	
E72-182	Oklahoma Committee To Defend Political Prisoners.	
E72-183	Oklahoma League for Political Education----	
E72-184	Pacific Northwest Labor School, Seattle, Wash. (formerly known as the Seattle Labor School, Seattle, Wash.).	
E72-185	Palo Alto Peace Club-----	
E72-186	Peace Information Center-----	
E72-187	Peace Movement of Ethiopia (a.k.a.: Ethio- pian Peace Movement).	
E72-188	People's Drama, Inc-----	
E72-189	People's Educational and Press Association of Texas.	
E72-190	People's Educational Association (incorpor- ated under name Los Angeles Educational Association, Inc.) (a.k.a.: People's Educa- tional Center, People's University, People's School).	

Docket No.	Name	Ceased Existence
E72-191	People's Institute of Applied Religion.....	
E72-192	People's Programs (Seattle, Wash.).....	
E72-193	People's Radio Foundation, Inc.....	
E72-194	People's Rights Party.....	
E72-195	Philadelphia Labor Committee for Negro Rights.	
E72-196	Philadelphia School of Social Science and Art.	
E72-197	Photo League (New York City).....	
E72-198	Pittsburgh Arts Club.....	
E72-199	Political Prisoners' Welfare Committee.....	
E72-200	Polonia Society of the IWO.....	
E72-201	Seattle Labor School, Seattle, Wash.....	

## Part VII

### FEDERAL LOYALTY AND SECURITY OATHS

#### PRESIDENT OF THE UNITED STATES

*Citation.*—Constitution of the United States, Article II, section 1, clause 8:

*Oath required—form.*—Before he enters on the execution of his office, he shall take the following oath or affirmation:

I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.

#### SENATORS, REPRESENTATIVES, MEMBERS OF STATE LEGISLATURE, AND OTHERS

*Citation.*—Constitution of the United States, Article VI, clause 3:

*Oath required.*—The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support the Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

*Citation.*—R.S. § 28; 2 U.S.C. 21:

*Oath required of Senators.*—The oath of office shall be administered by the President of the Senate to each Senator who shall be elected, previous to his taking his seat.

*Citation.*—R.S. § 29, 2 U.S.C. 22:

*Oath of President of Senate.*—When a President of the Senate has not taken the oath of office, it shall be administered to him by any Member of the Senate.

*Citation.*—R.S. § 30, as amended by Act of February 18, 1948 (62 Stat. 20, c. 53); 2 U.S.C. 25:

*Oath required of Speaker, Members, and Delegates, House of Representatives.*—At the first session of Congress after every general election of Representatives, the oath of office shall be administered by any Member of the House of Representatives to the Speaker; and by the Speaker to all the Members and Delegates present, and to the Clerk, previous to entering on any other business; and to the Members and Delegates who afterward appear, previous to their taking their seats.

The Clerk of the House of Representatives of the Eightieth and each succeeding Congress shall cause the oath of office to be printed, furnishing two copies to each Member and Delegate who has taken the oath of office in accordance with law, which shall be subscribed in person by the Member or Delegate, who shall thereupon deliver them to the Clerk, one to be filed in the records of the House of

Representatives, and the other to be recorded in the Journal of the House and in the Congressional Record; and such signed copies, or certified copies thereof, or of either of such records thereof, shall be admissible in evidence in any court of the United States, and shall be held conclusive proof of the fact that the signer duly took the oath of office in accordance with law.

Members and Delegates of the House of Representatives of the Eightieth Congress may subscribe and deliver the two signed copies of the printed oath of office at their convenience, at any time before the expiration of the Eightieth Congress.

*Form of oath.*—I, A B, do solemnly swear (or affirm) that I will support the Constitution of the United States (Act of June 1, 1789; 1 Stat. 23).

I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God. (Act of July 11, 1868; 15 Stat. 85, 5 U.S.C. 3331).

#### MEMBERS OF STATE LEGISLATURES AND STATE OFFICERS

*Citation.*—Act of July 30, 1947 (61 Stat. 643, c. 389); 4 U.S.C. 101:

*Oath required—form.*—Every member of a State legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: "I, A B, do solemnly swear that I will support the Constitution of the United States."

#### EXECUTIVE DEPARTMENTS AND ALL FEDERAL OFFICES

*Citation.*—R.S. § 1757, as last amended by Act of September 6, 1960 (80 Stat. 412, 424); 5 U.S.C. 3331:

*Oath required—form.*—The oath to be taken by any person elected or appointed to any office of honor or profit either in the civil, military, or naval service, except President of the United States shall be as follows:

I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

This section does not affect other oaths required by law.

*Custody of oath.*—The oath of office taken by any individual under section 3331 of this Title shall be delivered by him to, and preserved by the House of Congress, agency, or court to which the office pertains. (R.S. 1759, 5 U.S.C. 2906).

#### FEDERAL EMPLOYEES—AFFIDAVIT REQUIRED BY PUBLIC LAW 330, 84TH CONGRESS (HATCH ACT AFFIDAVIT)

*Citation.*—Act of August 9, 1955 (69 Stat. 625, c. 690) as amended by Act of September 6, 1966 (80 Stat. 524); 5 U.S.C. 3333, 7311; 18 U.S.C. 1918:



*Affidavit required.*—An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

SEC. 2. *Affidavit.*—(a) Except as provided by subsection (b) of this section, an individual who accepts office or employment in the Government of the United States or in the government of the District of Columbia shall execute an affidavit within 60 days after accepting the office or employment that his acceptance and holding of the office or employment does not or will not violate section 7311 of this title. The affidavit is prima facie evidence that the acceptance and holding of office or employment by the affiant does not or will not violate section 7311 of this title.

(b) An affidavit is not required from an individual employed by the Government of the United States or the government of the District of Columbia for less than 60 days for sudden emergency work involving the loss of human life or the destruction of property. This subsection does not relieve an individual from liability for violation of section 7311 of this title.

SEC. 3. Whoever violates the provision of section 7311 of title 5 that an individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia;

shall be fined not more than \$1,000 or imprisoned not more than one year and a day, or both.

*Form of affidavit.*—The Civil Service Commission has issued Standard Form 61, revised in June 1957, which incorporates this affidavit. A copy of Form 61 follows:

## APPOINTMENT AFFIDAVITS

\_\_\_\_\_  
(Position to which appointed)

\_\_\_\_\_  
(Date of appointment)

\_\_\_\_\_  
(Department or agency)

\_\_\_\_\_  
(Bureau or division)

\_\_\_\_\_  
(Place of employment)

I, \_\_\_\_\_, do solemnly swear (or affirm) that—

### A. OATH OF OFFICE

I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

### B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

### C. AFFIDAVIT AS TO PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.

\_\_\_\_\_  
(Signature of appointee)

Subscribed and sworn (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19 \_\_\_\_\_

at \_\_\_\_\_

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

[SEAL]

\_\_\_\_\_  
(Signature of officer)

Commission expires \_\_\_\_\_

(If by a Notary Public, the date of expiration of his Commission should be shown)

\_\_\_\_\_  
(Title)

NOTE.—The oath of office must be administered by a person specified in 5 U.S.C. 2903. The words "So help me God" in the oath and the word "swear" wherever it appears above should be stricken out when the appointee elects to affirm rather than swear to the affidavits; only these words may be stricken and only when the appointee elects to affirm the affidavits.



## POSTAL SERVICE

*Citation.*—R.S. §§ 391, 392, as amended by Act of August 12, 1970 (84 Stat. 719); 39 U.S.C. 1011:

*Oath required—form.*—Before entering upon their duties and before receiving any salary, all officers and employees of the Postal Service shall take and subscribe the following oath or affirmation:

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter.

A person authorized to administer oaths by the laws of the United States, including section 2903 of title 5, or of a State or territory, or an officer, civil or military, holding a commission under the United States, or any officer or employee of the Postal Service designated by the Board may administer and certify the oath or affirmation.

## JUSTICES AND JUDGES

*Citation.*—Act of June 25, 1948 (62 Stat. 907, c. 646); 28 U.S.C. § 453:

*Oath required—form.*—Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office:

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as \_\_\_\_\_ according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States. So help me God.

## ATTORNEY UPON ADMISSION TO THE SUPREME COURT PRACTICE

*Citation.*—Rules of the Supreme Court of the United States, Rule 5(4); 28 U.S.C. Appendix:

*Oath required—form.*—4. Each applicant shall take or subscribe the following oath or affirmation, viz.:

I, \_\_\_\_\_, do solemnly swear (or affirm) that as an attorney and as a counsellor of this court I will conduct myself uprightly, and according to law, and that I will support the Constitution of the United States.

## NATIONAL SCIENCE FOUNDATION SCHOLARSHIP OR FELLOWSHIP

*Citation.*—Act of May 10, 1950 (64 Stat. 156 § 16(d), as amended by Act of April 5, 1952 (66 Stat. 43 c. 159)), and as renumbered by Act of July 11, 1958 (72 Stat. 353 § 2): 42 U.S.C. § 1874(d):

(d) (1) No part of any funds appropriated or otherwise made available for expenditure by the Foundation under authority of this chapter shall be used to make payments under any scholarship or fellowship awarded to any individual under section 1869 of this title, unless such individual—

(A) has taken and subscribed to an oath or affirmation in the

following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic"; and

(B) has provided the Foundation (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of \$25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such scholarship or fellowship.

The provisions of section 1001 of Title 18, shall be applicable with respect to the oath or affirmation and statement herein required.

(2) (A) When any Communist organization, as defined in section 782(5) of Title 50, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any scholarship or fellowship which is to be awarded from funds part or all of which are appropriated or otherwise made available for expenditure under the authority of section 1869 of this title, or (ii) to use or attempt to use any such award.

(B) Whoever violates subparagraph (A) of this paragraph shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

#### GOVERNMENT OFFICIALS OF THE VIRGIN ISLANDS

*Citation.*—Act of July 22, 1954 (68 Stat. 509 c. 558 § 29); 48 U.S.C. 1543:

*Oath required—form.*—All officials of the government of the Virgin Islands shall be citizens of the United States. Every member of the Legislature of the Virgin Islands and all officers and employees of the government of the Virgin Islands shall before entering upon the duties of their respective offices, or, in the case of persons in the employ of the government of the Virgin Islands on the effective date of this Act, then within sixty days of the effective date thereof, make a written statement in the following form:

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support, obey, and defend the Constitution and laws of the United States applicable to the Virgin Islands and the laws of the Virgin Islands, and that I will discharge the duties of \_\_\_\_\_ with fidelity.

And I do further swear (or affirm) that I do not advocate, nor am I knowingly a member of any organization that advocates, the overthrow of the Government of the United States or of the Virgin Islands by force or violence or other unconstitutional means, or seeking by force or violence to deny other persons their rights under the Constitution and laws of the United States applicable to the Virgin Islands or the laws of the Virgin Islands.



And I do further swear (or affirm) that I will not so advocate nor will I knowingly become a member of such organization during the period that I am an employee of the Virgin Islands.

### CIVIL DEFENSE OFFICERS AND EMPLOYEES

*Citation.*—Act of January 12, 1951 (64 Stat. 1255 c. 1228 § 403(b), as amended by Act of March 5, 1952 (66 Stat. 13 c. 78, § 1(b)); 50 App., U.S.C. 2255(b):

*Oath required—form.*—(b) Each Federal employee of the Administration, except the subjects of the United Kingdom and the Dominion of Canada specified in section 401(b) of this Act [50 App. U.S.C.A. § 2253(b)] shall execute the loyalty oath or appointment affidavits prescribed by the Civil Service Commission. Each person other than a Federal employee who is appointed to serve in a State or local organization for civil defense shall before entering upon his duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of the (name of civil defense organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence.

After appointment and qualification of office, the director of civil defense of any State, and any subordinate civil defense officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of Title 18 [of the United States Code].

### NATIONAL DEFENSE EDUCATION ACT OF 1958

*Citation.*—Act of September 2, 1958 (72 Stat. 1602 § 1001(f)) as last amended by Act of April 13, 1970 (84 Stat. 173); 20 U.S.C. 581(f):

*Oath required—form.*—(f) (1) No part of any funds appropriated or otherwise made available for expenditure under the authority of this Act shall be used to make payments or loans to any individual (other than a permanent resident of the Trust Territory of the Pacific Islands) unless such individual has taken and subscribed to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic."

(2) No fellowship or stipend shall be awarded to any individual

under the provisions of sections 461 to 465 or sections 511 to 513 of this title unless such individual has provided the Commissioner (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of \$25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such fellowship or stipend.

(3) The provisions of section 1001 of Title 18 shall be applicable with respect to the oath or affirmation required under paragraph (1) of this subsection and to the statement required under paragraph (2).

(4) (A) When any Communist organization, as defined in section 782(5) of Title 50, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any payment or loan which is to be made from funds part or all of which are appropriated or otherwise made available for expenditure under the authority of this Act, or (ii) to use or attempt to use any such payment or loan.

(B) Whoever violates subparagraph (A) of this paragraph shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

#### CADETS ON ADMISSION TO THE ACADEMY

*Citation.*—Act of August 10, 1956 (70A Stat. 242); 10 U.S.C. 4346(d):

*Oath required—form.*—(d) To be admitted to the Academy, an appointee must take and subscribe to the following oath—

I, \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States, and bear true allegiance to the National Government; that I will maintain and defend the sovereignty of the United States, paramount to any and all allegiance, sovereignty, or fealty I may owe to any State or county whatsoever; and that I will at all times obey the legal orders of my superior officers, and the Uniform Code of Military Justice.

If a candidate for admission refuses to take this oath, his appointment is terminated.

#### NATIONAL GUARD ENLISTMENT OATH

*Citation.*—Act of August 10, 1956 (70A Stat. 602, ch. 1041); 32 U.S.C. 304:

*Oath required—form.*—Each person enlisting in the National Guard shall sign an enlistment contract and subscribe to the following oath:

I do hereby acknowledge to have voluntarily enlisted this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ in the \_\_\_\_\_ National Guard of the State of \_\_\_\_\_ for a period of \_\_\_\_\_ year(s) under the conditions prescribed by law, unless sooner discharged by proper authority.

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and of the State of \_\_\_\_\_ against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and that I will obey the orders of the President of the United States and the Governor of \_\_\_\_\_ and the orders of the officers appointed over me, according to law and regulations. So help me God.

This oath may be taken before any officer of the National Guard of the State or territory, or of Puerto Rico, the Canal Zone, or the District of Columbia, as the case may be, or before any other person authorized by the law of the jurisdiction concerned to administer oaths of enlistment in the National Guard.

#### RESERVE OFFICERS TRAINING CORPS (ROTC) LOYALTY OATH

*Citation.*—Act of July 7, 1960 (86 Stat. 1184; 10 U.S.C. 2103 note).

*Oath required.*—SEC. 723. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

*Form of oath.*—The oath prescribed by the Secretary of Defense is contained in Department of Defense Instruction No. 5210.15, dated August 28, 1957, and reads as follows:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

#### ALIEN PHYSICIANS, DENTISTS, AND ALLIED SPECIALISTS INDUCTED AND APPOINTED AS COMMISSIONED OFFICERS

*Citation.*—Act of June 29, 1953 (67 Stat. 86 § 1); 50 App. U.S.C. 457(i) (7)—Universal Military Training and Service Act:

*Oath required—form.*—Notwithstanding any other provision of law, except section 314 of the Immigration and Nationality Act (66 Stat. 163, 241) [8 U.S.C. § 1425], no person liable for induction under this subsection shall be held to be ineligible for appointment as a commissioned officer of an armed force of the United States on the sole ground that he is not a citizen of the United States or has not made a declaration of intent to become a citizen thereof: *Provided*, That any such person who is not a citizen of the United States, who is appointed as a commissioned officer, may in lieu of the oath prescribed by section 1757 of the Revised Statutes, as amended (5 U.S.C. 16) [set out above under heading "Executive Departments and all Federal Offices"], take such oath of service and obedience as the Secretary of Defense may prescribe.

*Form of oath.*—The oath has been prescribed by the Secretary of Defense in Department of Defense Instruction 1205.1, dated September 27, 1960 and revised May 16, 1973, which reads as follows:

VIII-(F). *Oath of office for certain non-citizens.*—In the event that a non-declarant alien while being processed for a commission indicates that he does not desire to take the oath of allegiance pre-

scribed by Section 1757 of the Revised Statutes, as amended, he may pursuant to subsection 5(a), Universal Military Training and Service Act, as amended, be administered the following oath of service and obedience:

"I \_\_\_\_\_, a citizen of \_\_\_\_\_, and without intention or surrendering such citizenship, having been appointed a \_\_\_\_\_, do solemnly swear (or affirm) that I will serve the United States against all their enemies whomsoever, and that I will honestly and faithfully discharge the duties of the office upon which I am about to enter; So Help Me God."

#### NATURALIZATION OATH OF RENUNCIATION AND ALLEGIANCE

*Citation.*—Act of June 27, 1952 (66 Stat. 258 c. 477 § 337); 8 U.S.C. 1448:

*Oath required—form.*—(a) A person who has petitioned for naturalization shall, in order to be and before being admitted to citizenship, take in open court an oath (1) to support the Constitution of the United States; (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state or sovereignty of whom or which the petitioner was before a subject or citizen; (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear true faith and allegiance to same; and (5) (A) to bear arms on behalf of the United States when required by law, or (B) to perform noncombatant service in the Armed Forces of the United States when required by the law, or (C) to perform work of national importance under civilian direction when required by law. Any such person shall be required to take an oath containing the substance of clauses (1)–(5) of the preceding sentence, except that a person who shows by clear and convincing evidence to the satisfaction of the naturalization court that he is opposed to the bearing of arms in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of clauses (1)–(4) and clauses (5) (B) and (5) (C) of this subsection, and a person who shows by clear and convincing evidence to the satisfaction of the naturalization court that he is opposed to any type of service in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of said clauses (1)–(4) and clause (5) (C). The term "religious training and belief" as used in this section shall mean an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code \* \* \*





## APPENDIX

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LAIRD, SECRETARY OF DEFENSE, ET AL. v. TATUM ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE DISTRICT OF COLUMBIA CIRCUIT

No. 71-288. Argued March 27, 1972—Decided June 26, 1972

Prior to its being called upon in 1967 to assist local authorities in quelling civil disorders in Detroit, Michigan, the Department of the Army had developed only a general contingency plan in connection with its limited domestic mission under 10 U.S.C. § 331. In response to the Army's experience in the various civil disorders it was called upon to help control during 1967 and 1968, Army Intelligence established a data-gathering system, which respondents describe as involving the "surveillance of lawful civilian political activity." *Held*: Respondents' claim that their First Amendment rights are chilled, due to the mere existence of this data-gathering system, does not constitute a justiciable controversy on the basis of the record in this case, disclosing as it does no showing of objective harm or threat of specific future harm. Pp. 3-16.

144 U.S. App. D.C. 72, 444 F. 2d 947, reversed.

BURGER, C. J., delivered the opinion of the Court, in which WHITE, BLACKMUN, POWELL, and REHNQUIST, JJ., joined. DOUGLAS, J., filed a dissenting opinion in which MARSHALL, J., joined, *post*, p. 16. BRENNAN, J., filed a dissenting opinion in which STEWART and MARSHALL, JJ., joined, *post*, p. 38.

*Solicitor General Griswold* argued the cause for petitioners. With him on the briefs were *Assistant Attorney General Mardian* and *Robert L. Keuch*.

*Frank Askin* argued the cause for respondents. With him on the brief was *Melvin L. Wulf*.

*Sam J. Ervin, Jr.*, argued the cause for the Unitarian Universalist Assn. et al. as *amici curiae* urging affirmance. With him on the brief was *Lawrence M. Baskir*.

*Burke Marshall* and *Arthur R. Miller* filed a brief for a Group of Former Army Intelligence Agents as *amici curiae* urging affirmance.

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

Respondents brought this class action in the District Court seeking declaratory and injunctive relief on their claim that their rights were being invaded by the Department of the Army's alleged "surveillance of lawful and peaceful civilian political activity." The

petitioners in response described the activity as "gathering by lawful means \* \* \* [and] maintaining and using in their intelligence activities \* \* \* information relating to potential or actual civil disturbances [or] street demonstrations." In connection with respondents' motion for a preliminary injunction and petitioners' motion to dismiss the complaint, both parties filed a number of affidavits with the District Court and presented their oral arguments at a hearing on the two motions. On the basis of the pleadings,<sup>1</sup> the affidavits before the court, and the oral arguments advanced at the hearing, the District Court granted petitioners' motion to dismiss, holding that there was no justiciable claim for relief.

On appeal, a divided Court of Appeals reversed and ordered the case remanded for further proceedings. We granted certiorari to consider whether, as the Court of Appeals held, respondents presented a justiciable controversy in complaining of a "chilling" effect on the exercise of their First Amendment rights where such effect is allegedly caused, not by any "specific action of the Army against them, [but] only [by] the existence and operation of the intelligence gathering and distributing system, which is confined to the Army and related civilian investigative agencies." 144 U.S. App. D.C. 72, 78, 444 F. 2d 947, 953. We reverse.

# (1)

There is in the record a considerable amount of background information regarding the activities of which respondents complained; this information is set out primarily in the affidavits that were filed by the parties in connection with the District Court's consideration of respondents' motion for a preliminary injunction and petitioners' motion to dismiss. See Fed. Rule Civ. Proc. 12(b). A brief review of that information is helpful to an understanding of the issues.

The President is authorized by U.S.C. § 331<sup>2</sup> to make use of the

<sup>1</sup> The complaint filed in the District Court candidly asserted that its factual allegations were based on a magazine article: "The information contained in the foregoing paragraphs numbered five through thirteen [of the complaint] was published in the January 1970 issue of the magazine *The Washington Monthly*. \* \* \*"

<sup>2</sup> "Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection."

The constitutionality of this statute is not at issue here; the specific authorization of such use of federal armed forces, in addition to state militia, appears to have been enacted pursuant to Art. IV, § 4, of the Constitution, which provides that "[t]he United States \* \* \* shall protect each of [the individual States] \* \* \* on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence."

In describing the requirement of 10 U.S.C. § 331 for the use of federal troops to quell domestic disorders, Attorney General Ramsey Clark made the following statements in a letter sent to all state governors on August 7, 1967:

"There are three basic prerequisites to the use of Federal troops in a state in the event of domestic violence:

"(1) That a situation of serious 'domestic violence' exists within the state. While this conclusion should be supported with a statement of factual details to the extent feasible under the circumstances, there is no prescribed wording.

"(2) That such violence cannot be brought under control by the law enforcement resources available to the governor, including local and State police forces and the National Guard. The judgment required here is that there is a definite need for the assistance of Federal troops, taking into account the remaining time needed to move them into action at the scene of violence.

"(3) That the legislature or the governor requests the President to employ the armed forces to bring the violence under control. The element of request by the governor of a State is essential if the legislature cannot be convened. It may be difficult in the context of urban rioting, such as we have seen this summer, to convene the legislature.

"These three elements should be expressed in a written communication to the President, which of course may be a telegram, to support his issuance of a proclamation

armed forces to quell insurrection and other domestic violence if and when the conditions described in that section obtain within one of the States. Pursuant to those provisions, President Johnson ordered federal troops to assist local authorities at the time of the civil disorders in Detroit, Michigan, in the summer of 1967 and during the disturbances that followed the assassination of Dr. Martin Luther King. Prior to the Detroit disorders, the Army had a general contingency plan for providing such assistance to local authorities, but the 1967 experience led Army authorities to believe that more attention should be given to such preparatory planning. The data-gathering system here involved is said to have been established in connection with the development of more detailed and specific contingency planning designed to permit the Army, when called upon to assist local authorities, to be able to respond effectively with a minimum of force. As the Court of Appeals observed,

"In performing this type function the Army is essentially a police force or the back-up of a local police force. To quell disturbances or to prevent further disturbances the Army needs the same tools and, most importantly, the same information to which local police forces have access. Since the Army is sent into territory almost invariably unfamiliar to most soldiers and their commanders, their need for information is likely to be greater than that of the hometown policeman.

"No logical argument can be made for compelling the military to use *blind* force. When force is employed it should be intelligently directed, and this depends upon having reliable information—in time. As Chief Justice John Marshall said of Washington, 'A general must be governed by his intelligence and must regulate his measures by his information. It is his duty to obtain correct information \*\*\*.' So we take it as undeniable that the military, *i.e.* the Army, need a certain amount of information in order to perform their constitutional and statutory missions" 144 U.S. App. D.C., at 77-78, 444 F. 2d, at 952-953 (footnotes omitted).

The system put into operation as a result of the Army's 1967 experience consisted essentially of the collection of information about public activities that were thought to have at least some potential for civil disorder, the reporting of that information to Army Intelligence headquarters at Fort Holabird, Maryland, the dissemination of these reports from headquarters to major Army posts around the country, and the storage of the reported information in a computer data bank located at Fort Holabird. The infor-

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under 10 U.S.C. § 334 and commitment of troops to action. In case of extreme emergency, receipt of a written request will not be a prerequisite to Presidential action. However, since it takes several hours to alert and move Federal troops, the few minutes needed to write and dispatch a telegram are not likely to cause any delay.

"Upon receiving the request from a governor, the President, under the terms of the statute and the historic practice, must exercise his own judgment as to whether Federal troops will be sent, and as to such questions as timing, size of the force, and federalization of the National Guard.

"Preliminary steps, such as alerting the troops, can be taken by the Federal government upon oral communications and prior to the governor's determination that the violence cannot be brought under control without aid of Federal forces. Even such preliminary steps, however, represent a most serious departure from our traditions of local responsibility for law enforcement. They should not be requested until there is a substantial likelihood that the Federal forces will be needed."

This analysis of Attorney General Clark suggests the importance of the need for information to guide the intelligent use of military forces and to avoid "overkill."

mation itself was collected by a variety of means, but it is significant that the principal sources of information were the news media and publications in general circulation. Some of the information came from Army Intelligence agents who attended meetings that were open to the public and who wrote field reports describing the meetings, giving such data as the name of the sponsoring organization, the identity of speakers, the approximate number of persons in attendance, and an indication of whether any disorder occurred. And still other information was provided to the Army by civilian law enforcement agencies.

The material filed by the Government in the District Court reveals that Army Intelligence has field offices in various parts of the country; these offices are staffed in the aggregate with approximately 1,000 agents, 94% of whose time<sup>3</sup> is devoted to the organization's principal mission,<sup>4</sup> which is unrelated to the domestic surveillance system here involved.

By early 1970 Congress became concerned with the scope of the Army's domestic surveillance system; hearings on the matter were held before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary. Meanwhile, the Army, in the course of a review of the system, ordered a significant reduction in its scope. For example, information referred to in the complaint as the "blacklist" and the records in the computer data bank at Fort Holabird were found unnecessary and were destroyed, along with other related records. One copy of all the material relevant to the instant suit was retained, however, because of the pendency of this litigation. The review leading to the destruction of these records was said at the time the District Court ruled on petitioners' motion to dismiss to be a "continuing" one (App. 82), and the Army's policies at that time were represented as follows in a letter from the Under Secretary of the Army to Senator Sam J. Ervin, Chairman of the Senate Subcommittee on Constitutional Rights:

"[R]eports concerning civil disturbances will be limited to matters of immediate concern to the Army—that is, reports concerning outbreaks of violence or incidents with a high potential for violence beyond the capability of state and local police and the National Guard to control. These reports will be collected by liaison with other Government agencies and reported by teletype to the Intelligence Command. They will not be placed in a computer \* \* \*. These reports are destroyed 60 days after publication or 60 days after the end of the disturbance. This limited reporting system will ensure that the Army is prepared to respond to whatever directions the President may issue in civil disturbance situations and without 'watching' the lawful activities of civilians." (App. 80.)

In briefs for petitioners filed with this Court, the Solicitor General has called our attention to certain directives issued by the Army

<sup>3</sup> Translated in terms of personnel, this percentage figure suggests that the total intelligence operation concerned with potential civil disorders hardly merits description as "massive," as one of the dissents characterizes it.

<sup>4</sup> That principal mission was described in one of the documents filed with the District Court as the conducting of "investigations to determine whether uniformed members of the Army, civilian employees (of the Army) and contractors' employees should be granted access to classified information." App. 76-77.



and the Department of Defense subsequent to the District Court's dismissal of the action; these directives indicate that the Army's review of the needs of its domestic intelligence activities has indeed been a continuing one and that those activities have since been significantly reduced.

(2)

The District Court held a combined hearing on respondents' motion for a preliminary injunction and petitioners' motion for dismissal and thereafter announced its holding that respondents had failed to state a claim upon which relief could be granted. It was the view of the District Court that respondents failed to allege any action on the part of the Army that was unlawful in itself and further failed to allege any injury or any realistic threats to their rights growing out of the Army's actions.<sup>5</sup>

In reversing, the Court of Appeals noted that respondents "have some difficulty in establishing visible injury":

"[They] freely admit that they complain of no specific action of the Army against them \* \* \*. There is no evidence of illegal or unlawful surveillance activities. We are not cited to any clandestine intrusion by a military agent. So far as is yet shown, the information gathered is nothing more than a good newspaper reporter would be able to gather by attendance at public meetings and the clipping of articles from publications available on any newsstand." 144 U.S. App. D.C., at 78, 444 F. 2d, at 953.

The court took note of petitioners' argument "that nothing [detrimental to respondents] has been done, that nothing is contemplated to be done, and even if some action by the Army against [respondents] were possibly foreseeable, such would not present a presently justiciable controversy." With respect to this argument, the Court of Appeals had this to say:

"This position of the appellees [petitioners] does not accord full measure to the rather unique argument advanced by appellants [respondents]. While appellants do indeed argue that in the future it is possible that information relating to matters far beyond the responsibilities of the military may be misused by the military to the detriment of these civilian appellants, yet appellants do not attempt to establish this as a definitely foreseeable event, or to base their complaint on this ground. Rather, appellants contend that the *present existence of this system* of gathering and distributing information, allegedly far beyond the mission requirements of the Army, constitutes an impermissible burden on appellants and other persons similarly situated which exercises a *present inhibiting effect* on their full expres-

<sup>5</sup>In the course of the oral argument, the District Judge sought clarification from respondents' counsel as to the nature of threats perceived by respondents; he asked what exactly it was in the Army's activities that tended to chill respondents and others in the exercise of their constitutional rights. Counsel responded that it was

"precisely the threat in this case that *in some future civil disorder* of some kind, the Army is going to come in with its list of troublemakers \* \* \* and go rounding up people and putting them in military prisons somewhere." (Emphasis added.)

To this the court responded that "we still sit here with the writ of habeas corpus." At another point, counsel for respondents took a somewhat different approach in arguing that

"*we're not quite sure exactly what they have in mind* and that is precisely what causes the chill, the chilling effect." (Emphasis added.)



sion and utilization of their First Amendment rights \* \* \*." 144 U.S. App. D.C., at 79, 444 F. 2d, at 954. (Emphasis in original.)

Our examination of the record satisfies us that the Court of Appeals properly identified the issue presented, namely, whether the jurisdiction of a federal court may be invoked by a complainant who alleges that the exercise of his First Amendment rights is being chilled by the mere existence, without more, of a governmental investigative and data-gathering activity that is alleged to be broader in scope than is reasonably necessary for the accomplishment of a valid governmental purpose. We conclude, however, that, having properly identified the issue, the Court of Appeals decided that issue incorrectly.<sup>6</sup>

In recent years this Court has found in a number of cases that constitutional violations may arise from the deterrent, or "chilling," effect of governmental regulations that fall short of a direct prohibition against the exercises of First Amendment rights. *E.g.*, *Baird v. State Bar of Arizona*, 401 U.S. 1 (1971); *Keyishian v. Board of Regents*, 385 U.S. 589 (1967); *Lamont v. Postmaster General*, 381 U.S. 301 (1965); *Baggett v. Bullitt*, 377 U.S. 360 (1964). In none of these cases, however, did the chilling effect arise merely from the individual's knowledge that a governmental agency was engaged in certain activities or from the individual's concomitant fear that, armed with the fruits of those activities, the agency might in the future take some *other* and additional action detrimental to that individual. Rather, in each of these cases, the challenged exercise of governmental power was regulatory proscriptive or compulsory in nature, and the complainant was either presently or prospectively subject to the regulations, proscriptions, or compulsions that he was challenging.

For example, the petitioner in *Baird v. State Bar of Arizona* had been denied admission to the bar solely because of her refusal to answer a question regarding the organizations with which she had been associated in the past. In announcing the judgment of the Court, Mr. Justice Black said that "a State may not inquire about a man's views or associations solely for the purpose of withholding a right or benefit because of what he believes." 401 U.S., at 7. Some of the teachers who were the complainants in *Keyishian v. Board of Regents* had been discharged from employment by the State, and the others were threatened with such discharge, because of their political acts or associations. The Court concluded that the State's "complicated and intricate scheme" of laws and regulations relating to

<sup>6</sup> Indeed, the Court of Appeals noted that it had reached a different conclusion when presented with a virtually identical issue in another of its recently decided cases, *Davis v. Ichord*, 143 U.S. App. D.C. 183, 442 F. 2d 1207 (1970). The plaintiffs in *Davis* were attacking the constitutionality of the House of Representatives Rule under which the House Committee on Internal Security conducts investigations and maintains files described by the plaintiffs as a "political blacklist." The court noted that any chilling effect to which the plaintiffs were subject arose from the mere existence of the Committee and its files and the mere possibility of the misuse of those files. In affirming the dismissal of the complaint, the court concluded that allegations of such a chilling effect could not be elevated to a justiciable claim merely by alleging as well that the challenged House Rule was overly broad and vague.

In deciding the case presently under review, the Court of Appeals distinguished *Davis* on the ground that the difference in the source of the chill in the two cases—a House Committee in *Davis* and the Army in the instant case—was controlling. We cannot agree that the jurisdictional question with which we are here concerned is to be resolved on the basis of the identity of the parties named as defendants in the complaint.

teacher loyalty could not withstand constitutional scrutiny; it was not permissible to inhibit First Amendment expression by forcing a teacher to "guess what conduct or utterance" might be in violation of that complex regulatory scheme and might thereby "lose him his position." 385 U.S., at 604. *Lamont v. Postmaster General* dealt with a governmental regulation requiring private individuals to make a special written request to the Post Office for delivery of each individual mailing of certain kinds of political literature addressed to them. In declaring the regulation invalid, the Court said: "The addressee carries an affirmative obligation which we do not think the Government may impose on him." 381 U.S., at 307. *Baggett v. Bul-litt* dealt with a requirement that an oath of vague and uncertain meaning be taken as a condition of employment by a governmental agency. The Court said: "Those with a conscientious regard for what they solemnly swear or affirm, sensitive to the perils posed by the oath's indefinite language, avoid the risk of loss of employment, and perhaps profession, only by restricting their conduct to that which is unquestionably safe. Free speech may not be so inhibited." 377 U.S., at 372.

The decisions in these cases fully recognize that governmental action may be subject to constitutional challenge even though it has only an indirect effect on the exercise of First Amendment rights. At the same time, however, these decisions have in no way eroded the "established principle that to entitle a private individual to invoke the judicial power to determine the validity of executive or legislative action he must show that he has sustained or is immediately in danger of sustaining a direct injury as the result of that action \* \* \*." *Ex parte Levitt*, 302 U.S. 633, 634 (1937). The respondents do not meet this test; their claim, simply stated, is that they disagree with the judgments made by the Executive Branch with respect to the type and amount of information the Army needs and that the very existence of the Army's data-gathering system produces a constitutionally impermissible chilling effect upon the exercise of their First Amendment rights. That alleged "chilling" effect may perhaps be seen as arising from respondents' very perception of the system as inappropriate to the Army's role under our form of government, or as arising from respondents' beliefs that it is inherently dangerous for the military to be concerned with activities in the civilian sector, or as arising from respondents' less generalized yet speculative apprehensiveness that the Army may at some future date misuse the information in some way that would cause direct harm to respondents.<sup>7</sup> Allegations of a

<sup>7</sup> Not only have respondents left somewhat unclear the precise connection between the mere existence of the challenged system and their own alleged chill, but they have also cast considerable doubt on whether they themselves are in fact suffering from any such chill. Judge MacKinnon took cogent note of this difficulty in dissenting from the Court of Appeals' judgment, rendered as it was "on the facts of the case which emerge from the pleadings, affidavits and the admissions made to the trial court." 144 U.S. App. D.C., at 84, 444 F. 2d, at 959. At the oral argument before the District Court, counsel for respondents admitted that his clients were "not people, obviously, who are cowed and chilled"; indeed, they were quite willing "to open themselves up to public investigation and public scrutiny." But, counsel argued, these respondents must "represent millions of Americans not nearly as forward [and] courageous" as themselves. It was Judge MacKinnon's view that this concession "constitutes a basic denial of practically their whole case." *ibid.* Even assuming a justiciable controversy, if respondents themselves are not chilled, but seek only to represent those "millions" whom they believe are so chilled, respondents clearly lack that "personal stake in the outcome of the controversy" essential to standing. *Baker v. Carr*, 369 U.S. 186, 204 (1962). As the Court recently observed in *Moose Lodge No. 107 v. Irvis*, 407 U.S. 163, 166, a litigant "has standing to seek redress for injuries done to him, but may not seek redress for injuries done to others."

subjective "chill" are not an adequate substitute for a claim of specific present objective harm or a threat of specific future harm "the federal courts established pursuant to Article III of the Constitution do not render advisory opinions." *United Public Workers v. Mitchell*, 330 U.S. 75, 89 (1947).

Stripped to its essentials, what respondents appear to be seeking is a broad-scale investigation, conducted by themselves as private parties armed with the subpoena power of a federal district court and the power of cross-examination, to probe into the Army's intelligence-gathering activities, with the district court determining at the conclusion of that investigation the extent to which those activities may or may not be appropriate to the Army's mission. The following excerpt from the opinion of the Court of Appeals suggests the broad sweep implicit in its holding:

"Apparently in the judgment of the civilian head of the Army not everything being done in the operation of this intelligence system was necessary to the performance of the military mission. *If the Secretary of the Army can formulate and implement such judgment based on facts within his Departmental knowledge, the United States District Court can hear evidence, ascertain the facts, and decide what, if any, further restrictions on the complained-of activities are called for to confine the military to their legitimate sphere of activity and to protect appellants' allegedly infringed constitutional rights.*" 144 U.S. App. D.C., at 83, 444 F. 2d, 958. (Emphasis added.)

Carried to its logical end, this approach would have the federal courts as virtually continuing monitors of the wisdom and soundness of Executive action; such a role is appropriate for the Congress acting through its committees and the "power of the purse"; it is not the role of the judiciary, absent actual present or immediately threatened injury resulting from unlawful governmental action.

We, of course, intimate no view with respect to the propriety or desirability, from a policy standpoint, of the challenged activities of the Department of the Army; our conclusion is a narrow one, namely, that on this record the respondents have not presented a case for resolution by the courts.

The concerns of the Executive and Legislative Branches in response to disclosure of the Army surveillance activities—and indeed the claims alleged in the complaint—reflect a traditional and strong resistance of Americans to any military intrusion into civilian affairs. That tradition has deep roots in our history and found early expression, for example, in the Third Amendment's explicit prohibition against quartering soldiers in private homes without consent and in the constitutional provisions for civilian control of the military. Those prohibitions are not directly presented by this case, but their philosophical underpinnings explain our traditional insistence on limitations on military operations in peacetime. Indeed, when presented with claims of judicially cognizable injury resulting from military intrusion into the civilian sector, federal courts are fully empowered to consider claims of those asserting such injury; there is nothing in our Nation's history or in this Court's decided cases, including our holding today, that can properly be seen as giving any

indication that actual or threatened injury by reason of unlawful activities of the military would go unnoticed or unremedied.

*Reversed.*

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE MARSHALL concurs, dissenting.

## I

If Congress had passed a law authorizing the armed services to establish surveillance over the civilian population, a most serious constitutional problem would be presented. There is, however, no law authorizing surveillance over civilians, which in this case the Pentagon concededly had undertaken. The question is whether such authority may be implied. One can search the Constitution in vain for any such authority.

The start of the problem is the constitutional distinction between the "militia" and the Armed Forces. By Art. I, § 8, of the Constitution the militia is specifically confined to precise duties: "to execute the Laws of the Union, suppress Insurrections and repel Invasions."

This obviously means that the "militia" cannot be sent overseas to fight wars. It is purely a domestic arm of the governors of the several States,<sup>1</sup> save as it may be called under Art. I, § 8, of the Constitution into the federal service. Whether the "militia" could be given powers comparable to those granted the FBI is a question not now raised, for we deal here not with the "militia" but with "armies." The Army, Navy, and Air Force are comprehended in the constitutional term "armies." Art. I, § 8, provides that Congress may "raise and support Armies," and "provide and maintain a Navy," and make "Rules for the Government and Regulation of the land and naval Forces." And the Fifth Amendment excepts from the requirement of a presentment or indictment of a grand jury "cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger."

Acting under that authority, Congress has provided a code governing the Armed Services. That code sets the procedural standards for the Government and regulation of the land and naval forces. It is difficult to imagine how those powers can be extended to military surveillance over civilian affairs.<sup>2</sup>

The most pointed and relevant decisions of the Court on the limitation of military authority concern the attempt of the military to try civilians. The first leading case was *Ex parte Milligan*, 4 Wall. 2, 124, where the Court noted that the conflict between "civil liberty" and "martial law" is "irreconcilable." The Court which made that announcement would have been horrified at the prospect of the military—absent a regime of martial law—establishing a regime of surveillance over civilians. The power of the military to establish such a system is obviously less than the power of Congress to authorize such surveillance. For the authority of Congress is restricted by its power to "raise" armies, Art. I, § 8; and, to repeat, its authority over the Armed Forces is stated in these terms, "To

<sup>1</sup> I have expressed my doubts whether the "militia" loses its constitutional role by an Act of Congress which incorporates it in the armed services. *Drifka v. Brainard*, 89 S. Ct. 434.

<sup>2</sup> See Appendix I to this opinion.



make Rules for the Government and Regulation of the land and naval Forces."

The Constitution contains many provisions guaranteeing rights to persons. Those include the right to indictment by a grand jury and the right to trial by a jury of one's peers. They include the procedural safeguards of the Sixth Amendment in criminal prosecutions; the protection against double jeopardy, cruel and unusual punishments—and of course the First Amendment. The alarm was sounded in the Constitutional Convention about the dangers of the armed services. Luther Martin of Maryland said, "when a government wishes to deprive its citizens of freedom, and reduce them to slavery, it generally makes use of a standing army."<sup>3</sup> That danger, we have held, exists not only in bold acts of usurpation of power, but in gradual encroachments. We held that court-martial jurisdiction cannot be extended to reach any person not a member of the Armed Forces at the times both of the offense and of the trial, which eliminates discharged soldiers. *Toth v. Quarles*, 350 U.S. 11. Neither civilian employees of the Armed Forces overseas, *McElroy v. Guagliardo*, 361 U.S. 281; *Grisham v. Hagan*, 361 U.S. 278, nor civilian dependents of military personnel accompanying them overseas, *Kinsella v. Singleton*, 361 U.S. 234; *Reid v. Covert*, 354 U.S. 1, may be tried by court-martial. And even as respects those in the Armed Forces we have held that an offense must be "service connected" to be tried by court-martial rather than by civilian tribunals. *O'Callahan v. Parker*, 395 U.S. 358, 272.

The upshot is that the Armed Services—as distinguished from the "militia"—are not regulatory agencies or bureaus that may be created as Congress desires and granted such powers as seem necessary and proper. The authority to provide rules "governing" the Armed Services means the grant of authority to the Armed Services to govern themselves, not the authority to govern civilians. Even when "martial law" is declared, as it often has been, its appropriateness is subject to judicial review, *Sterling v. Constantin*, 287 U.S. 378, 401, 403-404.<sup>4</sup>

Our tradition reflects a desire for civilian supremacy and subordination of military power. The tradition goes back to the Declaration of Independence in which it was recited that the King "has affected to render the Military independent of and superior to the Civil power." Thus, we have the "militia" restricted to domestic use, the restriction of appropriations to the "armies" to two years, Art. I, § 8, and the grant of command over the armies and the militia when called into actual service of the United States to the President, our chief civilian officer. The tradition of civilian control over the Armed Forces was stated by Chief Justice Warren:<sup>5</sup>

<sup>3</sup> 3 M. Farrand, Records of the Federal Convention 209 (1911).

<sup>4</sup> Even some actions of the Armed Services in regulating their own conduct may be properly subjected to judicial scrutiny. Those who are not yet in the Armed Services have the protection of the full panoply of the laws governing admission procedures, see, e.g., *McKart v. United States*, 395 U.S. 185; *Oesterreich v. Selective Service Board*, 393 U.S. 233. Those in the service may use habeas corpus to test the jurisdiction of the Armed Services to try or detain them, see, e.g., *Parisi v. Davidson*, 405 U.S. 34; *Noyd v. Bond*, 395 U.S. 683, 696 n. 8; *Reid v. Covert*, 354 U.S. 1; *Billings v. Truesdell*, 321 U.S. 542. And, those in the Armed Service may seek the protection of civilian rather than military courts, when charged with crimes not service connected, *O'Callahan v. Parker*, 395 U.S. 258.

<sup>5</sup> The Bill of Rights and the Military, 37 N.Y.U.L. Rev. 181, 182, 193 (1962).



"The military establishment is, of course, a necessary organ of government; but the reach of its power must be carefully limited lest the delicate balance between freedom and order be upset. The maintenance of the balance is made more difficult by the fact that while the military serves the vital function of preserving the existence of the nation, it is, at the same time, the one element of government that exercises a type of authority not easily assimilated in a free society \* \* \*.

\* \* \* \* \*

"In times of peace, the factors leading to an extraordinary deference to claims of military necessity have naturally not been as weighty. This has been true even in the all too imperfect peace that has been our lot for the past fifteen years—and quite rightly so, in my judgment. It is instructive to recall that our Nation at the time of the Constitutional Convention was also faced with formidable problems. The English, the French, the Spanish, and various tribes of hostile Indians were all ready and eager to subvert or occupy the fledgling Republic. Nevertheless, in that environment, our Founding Fathers conceived a Constitution and Bill of Rights replete with provisions indicating their determination to protect human rights. There was no call for a garrison state in those times of precarious peace. We should heed no such call now. If we were to fail in these days to enforce the freedom that until now has been the American citizen's birthright, we would be abandoning for the foreseeable future the constitutional balance of powers and rights in whose name we arm."

Thus, we have until today consistently adhered to the belief that

"[i]t is an unbending rule of law, that the exercise of military power, where the rights of the citizen are concerned, shall never be pushed beyond what the exigency requires." *Raymond v. Thomas*, 91 U.S. 712, 716.

It was in that tradition that *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, was decided, in which President Truman's seizures of the steel mills in the so-called Korean War was held unconstitutional. As stated by Justice Black:

"The order cannot properly be sustained as an exercise of the President's military power as Commander in Chief of the Armed Forces. The Government attempts to do so by citing a number of cases upholding broad powers in military commanders engaged in day-to-day fighting in a theater of war. Such cases need not concern us here. Even though 'theater of war' be an expanding concept, we cannot with faithfulness to our constitutional system hold that the Commander in Chief of the Armed Forces has the ultimate power as such to take possession of private property in order to keep labor disputes from stopping production. This is a job for the Nation's lawmakers, not for its military authorities." *Id.*, at 587.

Madison expressed the fear of military dominance: <sup>6</sup>

"The veteran legions of Rome were an overmatch for the undisciplined valor of all other nations, and rendered her the mistress of the world.

<sup>6</sup> The Federalist No. 41.

"Not the less true is it, that the liberties of Rome proved the final victim to her military triumphs; and that the liberties of Europe, as far as they ever existed, have, with few exceptions, been the price of her military establishments. A standing force, therefore, is a dangerous, at the same time that it may be a necessary, provision. On the smallest scale it has its inconveniences. On an extensive scale its consequences may be fatal. On any scale it is an object of laudable circumspection and precaution. A wise nation will combine all these considerations; and, whilst it does not rashly preclude itself from any resource which may become essential to its safety, will exert all its prudence in diminishing both the necessity and the danger of resorting to one which may be inauspicious to its liberties.

"The clearest marks of this prudence are stamped on the proposed Constitution. The Union itself, which it cements and secures, destroys every pretext for a military establishment which could be dangerous. America united, with a handful of troops, or without a single soldier, exhibits a more forbidding posture to foreign ambition than America disunited, with a hundred thousand veterans ready for combat."

As Chief Justice Warren has observed, the safeguards in the main body of the Constitution did not satisfy the people on their fear and concern of military dominance:<sup>7</sup>

"They were reluctant to ratify the Constitution without further assurances, and thus we find in the Bill of Rights Amendments 2 and 3, specifically authorizing a decentralized militia, guaranteeing the right of the people to keep and bear arms, and prohibiting the quartering of troops in any house in time of peace without the consent of the owner. Other Amendments guarantee the right of the people to assemble, to be secure in their homes against unreasonable searches and seizures, and in criminal cases to be accorded a speedy and public trial by an impartial jury after indictment in the district and state wherein the crime was committed. The only exceptions made to these civilian trial procedures are for cases arising in the land and naval forces. Although there is undoubtedly room for argument based on the frequently conflicting sources of history, it is not unreasonable to believe that our Founders' determination to guarantee the preeminence of civil over military power was an important element that prompted adoption of the Constitutional Amendments we call the Bill of Rights."

The action in turning the "armies" loose on surveillance of civilians was a gross repudiation of our traditions. The military, though important to us, is subservient and restricted purely to military missions. It even took an Act of Congress to allow a member of the Joint Chiefs of Staff to address the Congress;<sup>8</sup> and that small step

<sup>7</sup> 37 N.Y.U.L. Rev., at 185.

<sup>8</sup> The National Security Act of 1947, amended by § 5 of the Act of Aug. 10, 1949, 63 Stat. 580, provided in § 202(c)(6):

"No provision of this Act shall be so construed as to prevent a Secretary of a military department or a member of the Joint Chiefs of Staff from presenting to the Congress, on his own initiative, after first so informing the Secretary of Defense, any recommendation relating to the Department of Defense that he may deem proper." See H. R. Conf. Rep. No. 1142, 81st Cong., 1st Sess., 18. This provision is now codified as 10 U.S.C. § 141(e).

did not go unnoticed but was in fact viewed with alarm by those respectful of the civilian tradition. Walter Lippmann has written that during World War II, he was asked to convey a message to Winston Churchill, while the latter was in Washington together with his chiefs of staff. It was desired that Churchill should permit his chiefs of staff to testify before Congress as to the proper strategy for waging the war. Lippmann explains, however, that he "never finished the message. For the old lion let out a roar demanding to know why I was so ignorant of the British way of doing things that I could dare to suggest that a British general should address a parliamentary body."

"As I remember it, what he said was 'I am the Minister of Defense and I, not the generals, will state the policy of His Majesty's government.'" The Intervention of the General, *Washington Post*, April 27, 1967.<sup>9</sup>

The act of turning the military loose on civilians even if sanctioned by an Act of Congress, which it has not been, would raise serious and profound constitutional questions. Standing as it does only on brute power and Pentagon policy, it must be repudiated as a usurpation dangerous to the civil liberties on which free men are dependent. For, as Senator Sam Ervin has said, "this claim of an inherent executive branch power of investigation and surveillance on the basis of people's beliefs and attitudes may be more of a threat to our internal security than any enemies beyond our borders." Ervin, *Privacy and Government Investigations*, 1971 U. Ill. L. F. 137, 153.

## II

The claim that respondents have no standing to challenge the Army's surveillance of them and the other members of the class they seek to represent is too transparent for serious argument. The surveillance of the Army over the civilian sector—a part of society hitherto immune from their control—is a serious charge. It is alleged that the Army maintains files on the membership, ideology, programs, and practices of virtually every activist political group in the country, including groups such as the Southern Christian Leadership Conference, Clergy and Laymen United Against the War in Vietnam, The American Civil Liberties Union, Women's Strike for Peace, and the National Association for the Advancement of Colored People. The Army uses undercover agents to infiltrate these civilian groups and to reach into confidential files of students and other groups. The Army moves as a secret group among civilian audiences, using cameras and electronic ears for surveillance. The data it collects are distributed to civilian officials in state, federal, and local governments and to each military intelligence unit and troop command under the Army's jurisdiction (both here and abroad); and these data are stored in one or more data banks.

Those are the allegations; and the charge is that the purpose and effect of the system of surveillance is to harass and intimidate the respondents and to deter them from exercising their rights of political expression, protest, and dissent "by invading their privacy, dam-

<sup>9</sup> The full account is contained in Appendix II.

aging their reputations, adversely affecting their employment and their opportunities for employment, and in other ways." Their fear is that "permanent reports of their activities will be maintained in the Army's data bank, and their 'profiles' will appear in the so-called 'Blacklist' and that all of this information will be released to numerous federal and state agencies upon request."

Judge Wilkey, speaking for the Court of Appeals, properly held that this Army surveillance "exercises a *present inhibiting effect* on their full expression and utilization of their First Amendment rights." 144 U.S. App. D.C. 72, 79, 444 F. 2d 947, 954. That is the test. The "deterrent effect" on First Amendment rights by government oversight marks an unconstitutional intrusion, *Lamont v. Postmaster General*, 381 U.S. 301, 307. Or, as stated by Mr. JUSTICE BRENNAN, "inhibition as well as prohibition against the exercise of precious First Amendment rights is a power denied to government." *Id.*, at 309. When refusal of the Court to pass on the constitutionality of an Act under the normal consideration of forbearance "would itself have an inhibitory effect on freedom of speech" then the Court will act. *United States v. Raines*, 362 U.S. 17, 22.

As stated by the Supreme Court of New Jersey, "there is good reason to permit the strong to speak for the weak or the timid in First Amendment matters." *Anderson v. Sills*, 56 N.J. 210, 220, 265 A. 2d 678, 684 (1970).

One need not wait to sue until he loses his job or until his reputation is defamed. To withhold standing to sue until that time arrives would in practical effect immunize from judicial scrutiny all surveillance activities, regardless of their misuse and their deterrent effect. As stated in *Flast v. Cohen*, 392 U.S. 83, 101, "in terms of Article III limitations on federal court jurisdiction, the question of standing is related only to whether the dispute sought to be adjudicated will be presented in an adversary context and in a form historically viewed as capable of judicial resolution." Or, as we put it in *Baker v. Carr*, 369 U.S. 186, 204, the gist of the standing issue is whether the party seeking relief has "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions."

The present controversy is not a remote, imaginary conflict. Respondents were targets of the Army's surveillance. First, the surveillance was not casual but massive and comprehensive. Second, the intelligence reports were regularly and widely circulated and were exchanged with reports of the FBI, state and municipal police departments, and the CIA. Third, the Army's surveillance was not collecting material in public records but staking out teams of agents, infiltrating undercover agents, creating command posts inside meetings, posing as press photographers and newsmen, posing as TV newsmen, posing as students, and shadowing public figures.

Finally, we know from the hearings conducted by Senator Ervin that the Army has misused or abused its reporting functions. Thus, Senator Ervin concludes that reports of the Army have been "taken from the Intelligence Command's highly inaccurate civil disturbance



teletype and filed in Army dossiers on persons who have held, or were being considered for, security clearances, thus contaminating what are supposed to be investigative reports with unverified gossip and rumor. This practice directly jeopardized the employment and employment opportunities of persons seeking sensitive positions with the federal government or defense industry.”<sup>10</sup>

Surveillance of civilians is none of the Army's constitutional business and Congress has not undertaken to entrust it with any such function. The fact that since this litigation started the Army's surveillance may have been cut back is not an end of the matter. Whether there has been an actual cutback or whether the announcements are merely a ruse can be determined only after a hearing in the District Court. We are advised by an *amicus curiae* brief filed by a group of former Army Intelligence Agents that Army surveillance of civilians is rooted in secret programs of long standing.

“Army intelligence has been maintaining an unauthorized watch over civilian political activity for nearly 30 years. Nor is this the first time that Army intelligence has, without notice to its civilian superiors, overstepped its mission. From 1917 to 1924, the Corps of Intelligence Police maintained a massive surveillance of civilian political activity which involved the use of hundreds of civilian informants, the infiltration of civilian organizations and the seizure of dissenters and unionists, sometimes without charges. That activity was opposed—then as now—by civilian officials on those occasions when they found out about it, but it continued unabated until post-war disarmament and economies finally eliminated the bureaucracy that conducted it.” Pp. 29–30.

This case is a cancer in our body politic. It is a measure of the disease which afflicts us. Army surveillance, like Army regimentation, is at war with the principles of the First Amendment. Those who already walk submissively will say there is no cause for alarm. But submissiveness is not our heritage. The First Amendment was designed to allow rebellion to remain as our heritage. The Constitution was designed to keep government off the backs of the people. The Bill of Rights was added to keep the precincts of belief and expression, of the press, of political and social activities free from surveillance. The Bill of Rights was designed to keep agents of government and official eavesdroppers away from assemblies of people. The aim was to allow men to be free and independent and to assert their rights against government. There can be no influence more paralyzing of that objective than Army surveillance. When an intelligence officer looks over every nonconformist's shoulder in the library or walks invisibly by his side in a picket line or infiltrates his club, the America once extolled as the voice of liberty heard around the world no longer is cast in the image which Jefferson and Madison designed, but more in the Russian image, depicted in Appendix III to this opinion.

<sup>10</sup> Hearings on Federal Data Banks, Computers and the Bill of Rights, before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 92d Cong., 1st Sess. (1971).



## APPENDIX I TO OPINION OF DOUGLAS, J., DISSENTING

The narrowly circumscribed domestic role which Congress has by statute authorized the Army to play is clearly an insufficient basis for the wholesale civilian surveillance of which respondents complain. The entire domestic mission of the armed services is delimited by nine statutes.

*Four define the Army's narrow role as a back-up for civilian authority where the latter has proved insufficient to cope with insurrection:*

10 U.S.C. § 331:

"Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection."

10 U.S.C. § 332:

"Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion."

10 U.S.C. § 333:

"The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

"(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

"(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

"In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution."

10 U.S.C. § 334:

"Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time."

*Two statutes, passed as a result of Reconstruction Era military abuses, prohibit military interference in civilian elections:*

18 U.S.C. § 592:

"Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders,

brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

"This section shall not prevent any officer or member of the armed forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote."

18 U.S.C. § 593:

"Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

"Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

"Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

"Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

"Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties—

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

"This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district."

*Another Reconstruction Era statute forbids the use of military troops as a posse comitatus:*

18 U.S.C. § 1385:

"Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years, or both."

*Finally, there are two specialized statutes. It was thought necessary to pass an Act of Congress to give the armed services some limited power to control prostitution near military bases, and an Act of Congress was required to enable a member of the Joint Chiefs of Staff to testify before Congress:*

18 U.S.C. § 1384:

"Within such reasonable distance of any military or naval camp, station, fort, post, yard, base, cantonment, training or mobilization place as the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or any two or all of them shall deter-

mine to be needful to the efficiency, health, and welfare of the Army, the Navy, or the Air Force, and shall designate and publish in general orders or bulletins, whoever engages in prostitution or aids or abets prostitution or procures or solicits for purposes of prostitution, or keeps or sets up a house of ill fame, brothel, or bawdy house, or receives any person for purposes of lewdness, assignation, or prostitution into any vehicle, conveyance, place, structure, or building, or permits any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure, or building or leases or rents or contracts to lease or rent any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"The Secretaries of the Army, Navy, and Air Force and the Federal Security Administrator shall take such steps as they deem necessary to suppress and prevent such violations thereof, and shall accept the cooperation of the authorities of States and their counties, districts, and other political subdivisions in carrying out the purpose of this section.

"This section shall not be construed as conferring on the personnel of the Departments of the Army, Navy, or Air Force or the Federal Security Agency any authority to make criminal investigations, searches, seizures, or arrests of civilians charged with violations of this section."

10 U.S.C. § 141(e) :

"After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he may consider appropriate."

#### APPENDIX II TO OPINION OF DOUGLAS, J., DISSENTING

Walter Lippmann gave the following account of his conversation with Churchill:

"The President's bringing Gen. Westmoreland home in order to explain the war reminds me of an instructive afternoon spent during the Second World War. The country and the Congress were divided on the question of whether to strike first against Hitler or first against Japan. Churchill and Roosevelt had agreed on the policy of Hitler first. But there were large and powerful groups in the country, many of them former isolationists in the sense that they were anti-European, who wanted to concentrate American forces on winning the war against Japan. Even the American chiefs of staff were divided on this question of high strategy.

"Churchill had come to Washington, accompanied by the British chiefs of staff, to work out with President Roosevelt and the Administration the general plan of the global war. One morning I had a telephone call from Sen. Austin, who was a strong believer in the Churchill-Roosevelt line. He said in effect, 'I know you are seeing the Prime Minister this afternoon and I wish you would ask him to tell his chiefs of staff to come to

Congress and testify in favor of our strategical policy.' Quite innocently I said I would do this, and when Churchill received me that afternoon I began by saying that I had a message from Sen. Austin. 'Would the Prime Minister instruct his chiefs of staff to go to the Senate Foreign Relations Committee \* \* \* .' I never finished the message. For the old lion let out a roar demanding to know why I was so ignorant of the British way of doing things that I could dare to suggest that a British general should address a parliamentary body.

"As I remember it, what he said was, 'I am the Minister of Defense and I, not the generals, will state the policy of His Majesty's government.'

"No one who ever aroused the wrath of Churchill is likely to forget it. I certainly have not forgotten it. I learned an indelible lesson about one of the elementary principles of democratic government. And therefore, I take a very sour view of a field commander being brought home by the President to educate the Congress and the American people."

Our military added political departments to their staffs. A Deputy Chief of Naval Operations, Military Policy Division, was first established in the Department of the Navy by President Truman in 1945. In the Office of Secretary of Defense that was done by President Truman in 1947, the appointee eventually becoming Assistant Secretary for International Security Affairs. A like office was established in 1961 in the Department of the Army by President Kennedy and another for the Air Force in 1957 by President Eisenhower. Thus, when the Pentagon entered a Washington, D.C., conference, its four "Secretaries of State" faced the real Secretary of State and more frequently than not talked or stared him down. The Pentagon's "Secretaries of State" usually spoke in unison; they were clear and decisive with no ifs, ands, or buts, and in policy conferences usually carried the day.

By 1968 the Pentagon was spending \$34 million a year on non-military social and behavioral science research both at home and abroad. One related to "witchcraft, sorcery, magic, and other psychological phenomena" in the Congo. Another concerned the "political influence of university students in Latin America." Other projects related to the skill of Korean women as divers, snake venoms in the Middle East, and the like. Research projects were going on for the Pentagon in 40 countries in sociology, psychology and behavioral sciences.

The department became so powerful that no President would dare crack down on it and try to regulate it.

The military approach to world affairs conditioned our thinking and our planning after World War II.

We did not realize that to millions of these people there was no difference between Communist dictatorship and the dictatorship under which they presently lived. We did not realize that in some regions of Asia it was the Communist party that identified itself with the so-called reform programs, the other parties being mere instruments for keeping a ruling class in power. We did not realize that, in the eyes of millions of illiterates, the choice between democracy and communism was not the critical choice it would be for us.



We talked about "saving democracy." But the real question in Asia, the Middle East, Africa, and Latin America was whether democracy would ever be born.

We forgot that democracy in most lands is an empty word. We asked illiterate people living at the subsistence level to furnish staging grounds for a military operation whose outcome, in their eyes, had no relation to their own welfare. Those who rejected our overtures must be communists, we said. Those who did not approve our military plans must be secretly aligning with Russia, we thought.

So it was that in underdeveloped areas we became identified not with ideas of freedom, but with bombs, planes, and tanks. We thought less and less in terms of defeating communism with programs of political action, more and more in terms of defeating communism with military might. Our foreign aid mounted; but nearly 70% of it was military aid.

Our fears mounted as the cold war increased in intensity. These fears had many manifestations. The communist threat inside the country was magnified and exalted far beyond its realities. Irresponsible talk fanned the flames. Accusations were loosely made. Character assassinations were common. Suspicion took the place of goodwill. We needed to debate with impunity and explore to the edges of problems. We needed to search to the horizon for answers to perplexing problems. We needed confidence in each other. But in the 40's, 50's, and 60's suspicions grew. Innocent acts became telltale marks of disloyalty. The coincidence that an idea paralleled Soviet Russia's policy for a moment of time settled an aura of doubt around a person.

### APPENDIX III TO OPINION OF DOUGLAS, J., DISSENTING

Alexander I. Solzhenitsyn, the noted Soviet author, made the following statement March 30, 1972, concerning surveillance of him and his family (reported in the Washington Post, April 3, 1972) :

"A kind of forbidden, contaminated zone has been created around my family, and to this day, there are people in Ryazan [where Solzhenitsyn used to live] who were dismissed from their jobs for having visited my house a few years ago. A corresponding member of the Academy of Sciences, T. Timofeyev, who is director of a Moscow institute, became so scared when he found out that a mathematician working under him was my wife that he dismissed her with unseemly haste, although this was just after she had given birth and contrary to all laws. \* \* \*

"It happens that an informant [for his new book on the history of prerevolutionary Russia] may meet with me. We work an hour or two and as soon as he leaves my house, he will be closely followed, as if he were a state criminal, and they will investigate his background, and then go on to find out who this man meets, and then, in turn, who that [next] person is meeting.

"Of course they cannot do this with everyone. The state security people have their schedule, and their own profound reasoning. On some days, there is no surveillance at all, or only superficial surveillance. On other days, they hang around, for example when Heinrich



Boll came to see me [he is a German writer who recently visited Moscow]. They will put a car in front of each of the two approaches [to the courtyard of the apartment house where he stays in Moscow] with three men in each car—and they don't work only one shift. Then off they go after my visitors, or they trail people who leave on foot.

"And if you consider that they listen around the clock to telephone conversations and conversations in my home, they analyze recording tapes and all correspondence, and then collect and compare all these data in some vast premises—and these people are not underlings—you cannot but be amazed that so many idlers in the prime of life and strength, who could be better occupied with productive work for the benefit of the fatherland, are busy with my friends and me, and keep inventing enemies."

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

The Court of Appeals held that a justiciable controversy exists and that respondents have stated a claim upon which relief could be granted. 144 U.S. App. D.C. 72, 88, 444 F. 2d 847, 958 (1971). I agree with Judge Wilkey, writing for the Court of Appeals, that this conclusion is compelled for the following reasons stated by him:

"[Respondents contend that the *present existence of this system* of gathering and distributing information, allegedly far beyond the mission requirements of the Army, constitutes an impermissible burden on [respondents] and other persons similarly situated which exercises a *present inhibiting effect* on their full expression and utilization of their First Amendment rights of free speech, etc. The baleful effect, if there is one, is thus a present inhibition of lawful behavior and of First Amendment rights.

"Under this view of [respondents'] allegations, under justiciability standards it is the operation of the system itself which is the breach of the Army's duty toward [respondents] and other civilians. The case is therefore ripe for adjudication. Because the evil alleged in the Army intelligence system is that of overbreadth, *i.e.*, the collection of information not reasonably relevant to the Army's mission to suppress civil disorder, and because there is no indication that a better opportunity will later arise to test the constitutionality of the Army's action, the issue can be considered justiciable at this time." *Id.*, at 79-81, 444 F. 2d, at 954-956 (emphasis in original) (footnotes omitted).

"To the extent that the Army's argument against justiciability here includes the claim that [respondents] lack standing to bring this action, we cannot agree. If the Army's system does indeed derogate First Amendment values, the [respondents] are persons who are sufficiently affected to permit their complaint to be heard. The record shows that most if not all of the [respondents] and/or the organizations of which they are members have been the subject of Army surveillance reports and their names have appeared in the Army's records. Since this is precisely the injury of which [respondents] complain, they have standing to

seek redress for that alleged injury in court and will provide the necessary adversary interest that is required by the standing doctrine, on the issue of whether the actions complained of do in fact inhibit the exercise of First Amendment rights. Nor should the fact that these particular persons are sufficiently uninhibited to bring this suit be any ground for objecting to their standing." *Id.*, at 79 n. 17, 444 F. 2d, at 954 n. 17.

Respondents may or may not be able to prove the case they allege. But I agree with the Court of Appeals that they are entitled to try. I would therefore affirm the remand to the District Court for a trial and determination of the issues specified by the Court of Appeals.

NEW YORK TIMES CO. v. UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE  
SECOND CIRCUIT

No. 1873. Argued June 26, 1971—Decided June 30, 1971\*

The United States, which brought these actions to enjoin publication in the New York Times and in the Washington Post of certain classified material, has not met the "heavy burden of showing justification for the enforcement of such a [prior] restraint."

No. 1873, 444 F. 2d 544, reversed and remanded; No. 1885, —U.S., App. D.C. —, 446 F. 2d 1327, affirmed.

*Alexander M. Bickel* argued the cause for petitioner in No. 1873. With him on the brief were *William E. Hegarty* and *Lawrence J. McKay*.

*Solicitor General Griswold* argued the cause for the United States in both cases. With him on the brief were *Assistant Attorney General Mardian* and *Daniel M. Friedman*.

*William R. Glendon* argued the cause for respondents in No. 1885. With him on the brief were *Roger A. Clark*, *Anthony F. Essaye*, *Leo P. Larkin, Jr.*, and *Stanley Godofsky*.

Briefs of *amici curiae* were filed by *Bob Eckhardt* and *Thomas I. Emerson* for Twenty-Seven Members of Congress; by *Norman Dorsen*, *Melvin L. Wulf*, *Burt Neuborne*, *Bruce J. Ennis*, *Osmond K. Fraenkel*, and *Marvin M. Karpatkin* for the American Civil Liberties Union; and by *Victor Rabinowitz* for the National Emergency Civil Liberties Committee.

PER CURIAM.

We granted certiorari in these cases in which the United States seeks to enjoin the New York Times and the Washington Post from publishing the contents of a classified study entitled "History of U.S. Decision-Making Process on Viet Nam Policy." *Post*, pp. 942, 943.

"Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity." *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 (1963); see also *Near v. Minnesota*, 283 U.S. 697 (1931). The Government "thus carries a heavy burden of showing justification for the imposition of such a restraint." *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971). The District Court for the Southern District of New York in the *New York Times* case and the District Court for the District of Columbia and the Court of Appeals for the District of Columbia Circuit in the *Washington Post* case held that the Government had not met that burden. We agree.

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\*Together with No. 1885, *United States v. Washington Post Co. et al.*, on certiorari to the United States Court of Appeals for the District of Columbia Circuit.

The judgment of the Court of Appeals for the District of Columbia Circuit is therefore affirmed. The order of the Court of Appeals for the Second Circuit is reversed and the case is remanded with directions to enter a judgment affirming the judgment of the District Court for the Southern District of New York. The stays entered June 25, 1971, by the Court are vacated. The judgments shall issue forthwith.

*So ordered.*

MR. JUSTICE BLACK, with whom MR. JUSTICE DOUGLAS joins, concurring.

I adhere to the view that the Government's case against the Washington Post should have been dismissed and that the injunction against the New York Times should have been vacated without oral argument when the cases were first presented to this Court. I believe that every moment's continuance of the injunctions against these newspapers amounts to a flagrant, indefensible, and continuing violation of the First Amendment. Furthermore, after oral argument, I agree completely that we must affirm the judgment of the Court of Appeals for the District of Columbia Circuit and reverse the judgment of the Court of Appeals for the Second Circuit for the reasons stated by my Brothers DOUGLAS and BRENNAN. In my view it is unfortunate that some of my Brethren are apparently willing to hold that the publication of news may sometimes be enjoined. Such a holding would make a shambles of the First Amendment.

Our Government was launched in 1780 with the adoption of the Constitution. The Bill of Rights, including the First Amendment followed in 1791. Now, for the first time in the 182 years since the founding of the Republic, the Federal courts are asked to hold that the First Amendment does not mean what it says, but rather means that the Government can halt the publication of current news of vital importance to the people of this country.

In seeking injunctions against these newspapers and in its presentation to the Court, the Executive Branch seems to have forgotten the essential purpose and history of the First Amendment. When the Constitution was adopted, many people strongly opposed it because the document contained no Bill of Rights to safeguard certain basic freedoms.<sup>1</sup> They especially feared that the new powers granted to a central government might be interpreted to permit the government to curtail freedom of religion, press, assembly, and speech. In response to an overwhelming public clamor, James Madison offered a series of amendments to satisfy citizens that these great liberties would remain safe and beyond the power of government to abridge. Madison proposed what later became the First Amendment in three parts, two of which are set out below, and one of which proclaimed: "The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; *and*

<sup>1</sup> In introducing the Bill of Rights in the House of Representatives, Madison said: "[B]ut I believe that the great mass of the people who opposed [the Constitution], disliked it because it did not contain effectual provisions against the encroachments on particular rights \* \* \*." 1 Annals of Cong. 433. Congressman Goodhue added: "[I]t is the wish of many of our constituents, that something should be added to the Constitution, to secure in a stronger manner their liberties from the roads of power." *Id.*, at 426.

*the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.*"<sup>2</sup> (Emphasis added.) The amendments were offered to *curtail* and *restrict* the general powers granted to the Executive, Legislative, and Judicial Branches two years before in the original Constitution. The Bill of Rights changed the original Constitution into a new charter under which no branch of government could abridge the people's freedoms of press, speech, religion, and assembly. Yet the Solicitor General argues and some members of the Court appear to agree that the general powers of the Government adopted in the original Constitution should be interpreted to limit and restrict the specific and emphatic guarantees of the Bill of Rights adopted later. I can imagine no greater perversion of history. Madison and the other Framers of the First Amendment, able men that they were, wrote in language they earnestly believed could never be misunderstood: "Congress shall make no law \* \* \* abridging the freedom \* \* \* of the press \* \* \*." Both the history and language of the First Amendment support the view that the press must be left free to publish news, whatever the source, without censorship, injunctions, or prior restraints.

In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government. The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell. In my view, far from deserving condemnation for their courageous reporting, the New York Times, the Washington Post, and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly. In revealing the workings of government that led to the Vietnam war, the newspapers nobly did precisely that which the Founders hoped and trusted they would do.

The Government's case here is based on premises entirely different from those that guided the Framers of the First Amendment. The Solicitor General has carefully and emphatically stated:

"Now, Mr. Justice [BLACK], your construction of \* \* \* [the First Amendment] is well known, and I certainly respect it. You say that no law means no law, and that should be obvious. I can only say, Mr. Justice, that to me it is equally obvious that 'no law' does not mean 'no law', and I would seek to persuade the Court that that is true \* \* \*. [T]here are other parts of the Constitution that grant powers and responsibilities to the Executive, and \* \* \* the First Amendment was not intended to make

<sup>2</sup> The other parts were:

"The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed."

"The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the Legislature by petitions, or remonstrances, for redress of their grievances." 1 Annals of Cong. 434.



it impossible for the Executive to function or to protect the security of the United States.”<sup>3</sup>

And the Government argues in its brief that in spite of the First Amendment, “[t]he authority of the Executive Department to protect the nation against publication of information whose disclosure would endanger the national security stems from two interrelated sources: the constitutional power of the President over the conduct of foreign affairs and his authority as Commander-in-Chief.”<sup>4</sup>

In other words, we are asked to hold that despite the First Amendment’s emphatic command, the Executive Branch, the Congress, and the Judiciary can make laws enjoining publication of current news and abridging freedom of the press in the name of “national security.” The Government does not even attempt to rely on any act of Congress. Instead it makes the bold and dangerously far-reaching contention that the courts should take it upon themselves to “make” a law abridging freedom of the press in the name of equity, presidential power and national security, even when the representatives of the people in Congress have adhered to the command of the First Amendment and refused to make such a law.<sup>5</sup> See concurring opinion of Mr. JUSTICE DOUGLAS, *post*, at 721-722. To find that the President has “inherent power” to halt the publication of news by resort to the courts would wipe out the First Amendment and destroy the fundamental liberty and security of the very people the Government hopes to make “secure.” No one can read the history of the adoption of the First Amendment without being convinced beyond any doubt that it was injunctions like those sought here that Madison and his collaborators intended to outlaw in this Nation for all time.

The word “security” is a broad, vague generality whose contours should not be invoked to abrogate the fundamental law embodied in the First Amendment. The guarding of military and diplomatic secrets at the expense of informed representative government provides no real security for our Republic. The Framers of the First Amendment, fully aware of both the need to defend a new nation and the abuses of the English and Colonial governments, sought to give this new society strength and security by providing that freedom of speech, press, religion, and assembly should not be abridged. This thought was eloquently expressed in 1937 by Mr. Chief Justice Hughes—great man and great Chief Justice that he was—when the Court held a man could not be punished for attending a meeting run by Communists.

“The greater the importance of safeguarding the community from incitements to the overthrow of our institutions by force and violence, the more imperative is the need to preserve inviolate the constitutional rights of free speech, free press and free

<sup>3</sup> Tr. of Oral Arg. 76.

<sup>4</sup> Brief for the United States 13-14.

<sup>5</sup> Compare the views of the Solicitor General with those of James Madison, the author of the First Amendment. When speaking of the Bill of Rights in the House of Representatives, Madison said: “If they [the first ten amendments] are incorporated into the Constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the Legislative or Executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the declaration of rights.” 1 Annals of Cong. 439.

assembly in order to maintain the opportunity for free political discussion, to the end that government may be responsive to the will of the people and that changes, if desired, may be obtained by peaceful means. Therein lies the security of the Republic, the very foundation of constitutional government.”<sup>6</sup>

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK joins, concurring.

While I join the opinion of the Court I believe it necessary to express my views more fully.

It should be noted at the outset that the First Amendment provides that “Congress shall make no law \* \* \* abridging the freedom of speech, or of the press.” That leaves, in my view, no room for governmental restraint on the press.<sup>1</sup>

There is, moreover, no statute barring the publication by the press of the material which the Times and the Post seek to use. Title 18 U.S.C. § 793 (e) provides that “[w]hoever having unauthorized possession of, access to, or control over any document, writing \* \* \* or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates \* \* \* the same to any person not entitled to receive it \* \* \* [s]hall be fined not more than \$10,000 or imprisoned not more than ten years, or both.”

The Government suggests that the word “communicates” is broad enough to encompass publication.

There are eight sections in the chapter on espionage and censorship, §§ 792–799. In three of those eight “publish” is specifically mentioned: § 794 (b) applies to “Whoever, in time of war, with intent that the same shall be communicated to the enemy, collects, records, *publishes*, or communicates \* \* \* [the disposition of armed forces].”

Section 797 applies to whoever “reproduces, *publishes*, sells, or gives away” photographs of defense installations.

Section 798 relating to cryptography applies to whoever: “communicates, furnishes, transmits, or otherwise makes available \* \* \* or *publishes*” the described material.<sup>2</sup> (Emphasis added.)

Thus it is apparent that Congress was capable of and did distinguish between publishing and communication in the various sections of the Espionage Act.

The other evidence that § 793 does not apply to the press is a rejected version of § 793. That version read: “During any national emergency resulting from a war to which the United States is a party, or from threat of such a war, the President may, by proclamation, declare the existence of such emergency and, by proclama-

<sup>6</sup> *De Jonge v. Oregon*, 299 U.S. 353, 365.

<sup>1</sup> See *Beauharnais v. Illinois*, 343 U.S. 250, 267 (dissenting opinion of MR. JUSTICE BLACK), 284 (my dissenting opinion); *Roth v. United States*, 354 U.S. 476, 508 (my dissenting opinion which MR. JUSTICE BLACK joined); *Yates v. United States*, 354 U.S. 298, 339 (separate opinion of MR. JUSTICE BLACK which I joined); *New York Times Co. v. Sullivan*, 376 U.S. 254, 293 (concurring opinion of MR. JUSTICE BLACK which I joined); *Garrison v. Louisiana*, 379 U.S. 64, 80 (my concurring opinion which MR. JUSTICE BLACK joined).

<sup>2</sup> These documents contain data concerning the communications system of the United States, the publication of which is made a crime. But the criminal sanction is not urged by the United States as the basis of equity power.

tion, prohibit the publishing or communicating of, or the attempting to publish or communicate any information relating to the national defense which, in his judgment, is of such character that it is or might be useful to the enemy." 55 Cong. Rec. 1763. During the debates in the Senate the First Amendment was specifically cited and that provision was defeated. 55 Cong. Rec. 2167.

Judge Gurfein's holding in the *Times* case that this Act does not apply to this case was therefore preeminently sound. Moreover, the Act of September 23, 1950, in amending 18 U.S.C. § 793 states in § 1 (b) that:

"Nothing in this Act shall be construed to authorize, require, or establish military or civilian censorship or in any way to limit or infringe upon freedom of the press or of speech as guaranteed by the Constitution of the United States and no regulation shall be promulgated hereunder having that effect." 64 Stat. 987.

Thus Congress has been faithful to the command of the First Amendment in this area.

So any power that the Government possesses must come from its "inherent power."

The power to wage war is "the power to wage war successfully." See *Hirabayashi v. United States*, 320 U.S. 81, 93. But the war power stems from a declaration of war. The Constitution by Art. I, § 8, gives Congress, not the President, power "[t]o declare War." Nowhere are presidential wars authorized. We need not decide therefore what leveling effect the war power of Congress might have.

These disclosures<sup>3</sup> may have a serious impact. But that is no basis for sanctioning a previous restraint on the press. As stated by Chief Justice Hughes in *Near v. Minnesota*, 283 U.S. 697, 719-720:

"While reckless assaults upon public men, and efforts to bring obloquy upon those who are endeavoring faithfully to discharge official duties, exert a baleful influence and deserve the severest condemnation in public opinion, it cannot be said that this abuse is greater, and it is believed to be less, than that which characterized the period in which our institutions took shape. Meanwhile, the administration of government has become more complex, the opportunities for malfeasance and corruption have multiplied, crime has grown to most serious proportions, and the danger of its protection by unfaithful officials and of the impairment of the fundamental security of life and property by criminal alliances and official neglect, emphasizes the primary need of a vigilant and courageous press, especially in great cities. The fact that the liberty of the press may be abused by miscreant purveyors of scandal does not make any the less necessary the immunity of the press from previous restraint in dealing with official misconduct."

As we stated only the other day in *Organization for a Better Austin v. Keeffe*, 402 U.S. 415, 419, "[a]ny prior restraint on expres-

<sup>3</sup> There are numerous sets of this material in existence and they apparently are not under any controlled custody. Moreover, the President has sent a set to the Congress. We start then with a case where there already is rather wide distribution of the material that is destined for publicity, not secrecy. I have gone over the material listed in the *in camera* brief of the United States. It is all history, not future events. None of it is more recent than 1968.

sion comes to this Court with a 'heavy presumption' against its constitutional validity."

The Government says that it has inherent powers to go into court and obtain an injunction to protect the national interest, which in this case is alleged to be national security.

*Near v. Minnesota*, 283 U.S. 697, repudiated that expansive doctrine in no uncertain terms.

The dominant purpose of the First Amendment was to prohibit the widespread practice of governmental suppression of embarrassing information. It is common knowledge that the First Amendment was adopted against the widespread use of the common law of seditious libel to punish the dissemination of material that is embarrassing to the powers-that-be. See T. Emerson, *The System of Freedom of Expression*, c. V (1970); Z. Chafee, *Free Speech in the United States*, c. XIII (1941). The present cases will, I think, go down in history as the most dramatic illustration of that principle. A debate of large proportions goes on in the Nation over our posture in Vietnam. That debate antedated the disclosure of the contents of the present documents. The latter are highly relevant to the debate in progress.

Secrecy in government is fundamentally anti-democratic, perpetuating bureaucratic errors. Open debate and discussion of public issues are vital to our national health. On public questions there should be "uninhibited, robust, and wide-open" debate. *New York Times Co. v. Sullivan*, 376 U.S. 254, 269-270.

I would affirm the judgment of the Court of Appeals in the *Post* case, vacate the stay of the Court of Appeals in the *Times* case and direct that it affirm the District Court.

The stays in these cases that have been in effect for more than a week constitute a flouting of the principles of the First Amendment as interpreted in *Near v. Minnesota*.

MR. JUSTICE BRENNAN, concurring.

## I

I write separately in these cases only to emphasize what should be apparent: that our judgments in the present cases may not be taken to indicate the propriety, in the future, of issuing temporary stays and restraining orders to block the publication of material sought to be suppressed by the Government. So far as I can determine, never before has the United States sought to enjoin a newspaper from publishing information in its possession. The relative novelty of the questions presented, the necessary haste with which decisions were reached, the magnitude of the interests asserted, and the fact that all the parties have concentrated their arguments upon the question whether permanent restraints were proper may have justified at least some of the restraints heretofore imposed in these cases. Certainly it is difficult to fault the several courts below for seeking to assure that the issues have involved were preserved for ultimate review by this Court. But even if it be assumed that some of the interim restraints were proper in the two cases before us, that assumption has no bearing upon the propriety of similar judicial



action in the future. To begin with, there has now been ample time for reflection and judgment; whatever values there may be in the preservation of novel questions for appellate review may not support any restraints in the future. More important the First Amendment stands as an absolute bar to the imposition of judicial restraints in circumstances of the kind presented by these cases.

## II

The error that has pervaded these cases from the outset was the granting of any injunctive relief whatsoever, interim or otherwise. The entire thrust of the Government's claim throughout these cases has been that publication of the material sought to be enjoined "could," or "might," or "may" prejudice the national interest in various ways. But the First Amendment tolerates absolutely no prior judicial restraints of the press predicated upon surmise or conjecture that untoward consequences may result.\* Our cases, it is true, have indicated that there is a single, extremely narrow class of cases in which the First Amendment's ban on prior judicial restraint may be overridden. Our cases have thus far indicated that such cases may arise only when the Nation "is at war," *Schenck v. United States*, 249 U.S. 47, 52 (1919), during which times "[n]o one would question but that a government might prevent actual obstruction to its recruiting service or the publication of the sailing dates of transports or the number and location of troops." *Near v. Minnesota*, 283 U.S. 697, 716 (1931). Even if the present world situation were assumed to be tantamount to a time of war, or if the power of presently available armaments would justify even in peacetime the suppression of information that would set in motion a nuclear holocaust, in neither of these actions has the Government presented or even alleged that publication of items from or based upon the material at issue would cause the happening of an event of that nature. "[T]he chief purpose of [the First Amendment's] guaranty [is] to prevent previous restraints upon publication." *Near v. Minnesota*, *supra*, at 713. Thus, only governmental allegation and proof that publication must inevitably, directly, and immediately cause the occurrence of an event kindred to imperiling the safety of a transport already at sea can support even the issuance of an interim restraining order. In no event may mere conclusions be sufficient: for if the Executive Branch seeks judicial aid in preventing publication, it must inevitably submit the basis upon which that aid is sought to scrutiny by the judiciary. And therefore, every restraint issued in this case, whatever its form, has violated the First Amendment—and not less so because that restraint was justified as necessary to afford the courts an opportunity to examine the claim more

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\**Freedman v. Maryland*, 380 U.S. 51 (1965), and similar cases regarding temporary restraints of allegedly obscene materials are not in point. For those cases rest upon the proposition that "obscenity is not protected by the freedoms of speech and press." *Roth v. United States*, 354 U.S. 476, 481 (1957). Here there is no question but that the material sought to be suppressed is within the protection of the First Amendment; the only question is whether, notwithstanding that fact, its publication may be enjoined for a time because of the presence of an overwhelming national interest. Similarly, copyright cases have no pertinence here; the Government is not asserting an interest in the particular form of words chosen in the documents, but is seeking to suppress the ideas expressed therein. And the copyright laws, of course, protect only the form of expression and not the ideas expressed.



thoroughly. Unless and until the Government has clearly made out its case, the First Amendment commands that no injunction may issue.

MR. JUSTICE STEWART, with whom MR. JUSTICE WHITE joins, concurring.

In the governmental structure created by our Constitution, the Executive is endowed with enormous power in the two related areas of national defense and international relations. This power, largely unchecked by the Legislative<sup>1</sup> and Judicial<sup>2</sup> branches, has been pressed to the very hilt since the advent of the nuclear missile age. For better or for worse, the simple fact is that a President of the United States possesses vastly greater constitutional independence in these two vital areas of power than does, say, a prime minister of a country with a parliamentary form of government.

In the absence of the governmental checks and balances present in other areas of our national life, the only effective restraint upon executive policy and power in the areas of national defense and international affairs may lie in an enlightened citizenry—in an informed and critical public opinion which alone can here protect the values of democratic government. For this reason, it is perhaps here that a press that is alert, aware, and free most vitally serves the basic purpose of the First Amendment. For without an informed and free press there cannot be an enlightened people.

Yet it is elementary that the successful conduct of international diplomacy and the maintenance of an effective national defense require both confidentiality and secrecy. Other nations can hardly deal with this Nation in an atmosphere of mutual trust unless they can be assured that their confidences will be kept. And within our own executive departments, the development of considered and intelligent international policies would be impossible if those charged with their formulation could not communicate with each other freely, frankly, and in confidence. In the area of basic national defense the frequent need for absolute secrecy is, of course, self-evident.

I think there can be but one answer to this dilemma, if dilemma it be. The responsibility must be where the power is.<sup>3</sup> If the Constitu-

<sup>1</sup> The President's power to make treaties and to appoint ambassadors is, of course, limited by the requirement of Art. II, § 2, of the Constitution that he obtain the advice and consent of the Senate. Article I, § 8, empowers Congress to "raise and support Armies," and "provide and maintain a Navy." And, of course, Congress alone can declare war. This power was last exercised almost 30 years ago at the inception of World War II. Since the end of that war in 1945, the Armed Forces of the United States have suffered approximately half a million casualties in various parts of the world.

<sup>2</sup> See *Chicago & Southern Air Lines v. Waterman S. S. Corp.*, 333 U.S. 103; *Hirabayashi v. United States*, 320 U.S. 81; *United States v. Curtiss-Wright Corp.*, 299 U.S. 304; cf. *Mora v. McNamara*, 128 U.S. App. D.C. 297, 387 F. 2d 862, cert. denied, 389 U.S. 934.

<sup>3</sup> "It is quite apparent that if, in the maintenance of our international relations, embarrassment—perhaps serious embarrassment—is to be avoided and success for our aims achieved, congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. Moreover, he, not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war. He has his confidential sources of information. He has his agents in the form of diplomatic, consular and other officials. Secrecy in respect of information gathered by them may be highly necessary, and the premature disclosure of it productive of harmful results. Indeed, so clearly is this true that the first President refused to accede to a request to lay before the House of Representatives the instructions, correspondence and documents relating to the negotiation of the Jay Treaty—a refusal the wisdom of which was recognized by the House itself and has never since been doubted \* \* \*." *United States v. Curtiss-Wright Corp.*, 299 U.S. 304, 320.

tion gives the Executive a large degree of unshared power in the conduct of foreign affairs and the maintenance of our national defense, then under the Constitution the Executive must have the largely unshared duty to determine and preserve the degree of internal security necessary to exercise that power successfully. It is an awesome responsibility, requiring judgment and wisdom of a high order. I should suppose that moral, political, and practical considerations would dictate that a very first principle of that wisdom would be an insistence upon avoiding secrecy for its own sake. For when everything is classified, then nothing is classified, and the system becomes one to be disregarded by the cynical or the careless, and to be manipulated by those intent on self-protection or self-promotion. I should suppose, in short, that the hallmark of a truly effective internal security system would be the maximum possible disclosure, recognizing that secrecy can best be preserved only when credibility is truly maintained. But be that as it may, it is clear to me that it is the constitutional duty of the Executive—as a matter of sovereign prerogative and not as a matter of law as the courts know law—through the promulgation and enforcement of executive regulations, to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense.

This is not to say that Congress and the courts have no role to play. Undoubtedly Congress has the power to enact specific and appropriate criminal laws to protect government property and preserve government secrets. Congress has passed such laws, and several of them are of very colorable relevance to the apparent circumstances of these cases. And if a criminal prosecution is instituted, it will be the responsibility of the courts to decide the applicability of the criminal law under which the charge is brought. Moreover, if Congress should pass a specific law authorizing civil proceedings in this field, the courts would likewise have the duty to decide the constitutionality of such a law as well as its applicability to the facts proved.

But in the cases before us we are asked neither to construe specific regulations nor to apply specific laws. We are asked, instead, to perform a function that the Constitution gave to the Executive, not the Judiciary. We are asked, quite simply, to prevent the publication by two newspapers of material that the Executive Branch insists should not, in the national interest, be published. I am convinced that the Executive is correct with respect to some of the documents involved. But I cannot say that disclosure of any of them will surely result in direct, immediate, and irreparable damage to our Nation or its people. That being so, there can under the First Amendment be but one judicial resolution of the issues before us. I join the judgments of the Court.

MR. JUSTICE WHITE, with whom MR. JUSTICE STEWART joins, concurring.

I concur in today's judgments, but only because of the concededly extraordinary protection against prior restraints enjoyed by the press under our constitutional system. I do not say that in no circumstances would the First Amendment permit an injunction against publishing information about government plans or

operations.<sup>1</sup> Nor, after examining the materials the Government characterizes as the most sensitive and destructive, can I deny that revelation of these documents will do substantial damage to public interests. Indeed, I am confident that their disclosure will have that result. But I nevertheless agree that the United States has not satisfied the very heavy burden that it must meet to warrant an injunction against publication in these cases, at least in the absence of express and appropriately limited congressional authorization for prior restraints in circumstances such as these.

The Government's position is simply stated: The responsibility of the Executive for the conduct of the foreign affairs and for the security of the Nation is so basic that the President is entitled to an injunction against publication of a newspaper story whenever he can convince a court that the information to be revealed threatens "grave and irreparable" injury to the public interest;<sup>2</sup> and the injunction should issue whether or not the material to be published is classified, whether or not publication would be lawful under relevant criminal statutes enacted by Congress, and regardless of the circumstances by which the newspaper came into possession of the information.

At least in the absence of legislation by Congress, based on its own investigations and findings, I am quite unable to agree that the inherent powers of the Executive and the courts reach so far as to authorize remedies having such sweeping potential for inhibiting publications by the press. Much of the difficulty inheres in the "grave and irreparable danger" standard suggested by the United States. If the United States were to have judgment under such a standard in these cases, our decision would be of little guidance to other courts in other cases, for the material at issue here would not be available from the Court's opinion or from public records, nor would it be published by the press. Indeed, even today where we hold that the United States has not met its burden, the material remains sealed in court records and it is properly not discussed in today's opinions. Moreover, because the material poses substantial dangers to national interests and because of the hazards of criminal sanctions, a responsible press may choose never to publish the more sensitive materials. To sustain the Government in these cases would

<sup>1</sup> The Congress has authorized a strain of prior restraints against private parties in certain instances. The National Labor Relations Board routinely issues cease-and-desist orders against employers who it finds have threatened or coerced employees in the exercise of protected rights. See 29 U.S.C. § 160(c). Similarly, the Federal Trade Commission is empowered to impose cease-and-desist orders against unfair methods of competition, written under certain circumstances. See, e.g., *NLRB v. Gissel Packing Co.*, 395 U.S. 15, 15 U.S.C. § 45(b). Such orders can, and quite often do, restrict what may be spoken or 575, 616-620 (1969). Article I, § 8, of the Constitution authorizes Congress to secure the "exclusive right" of authors to their writings, and no one denies that a newspaper can properly be enjoined from publishing the copyrighted works of another. See *Westermann Co. v. Dispatch Co.*, 249 U.S. 100 (1919). Newspapers do themselves rely from time to time on the copyright as a means of protecting their accounts of important events. However, those enjoined under the statutes relating to the National Labor Relations Board and the Federal Trade Commission are private parties, not the press; and when the press is enjoined under the copyright laws the complainant is a private copyright holder enforcing a private right. These situations are quite distinct from the Government's request for an injunction against publishing information about the affairs of government, a request admittedly not based on any statute.

<sup>2</sup> The "grave and irreparable danger" standard is that asserted by the Government in this Court. In remanding to Judge Gurfein for further hearing in the *Times* litigation, five members of the Court of Appeals for the Second Circuit directed him to determine whether disclosure of certain items specified with particularity by the Government would "pose such grave and immediate danger to the security of the United States as to warrant their publication being enjoined."

start the courts down a long and hazardous road that I am not willing to travel, at least without congressional guidance and direction.

It is not easy to reject the proposition urged by the United States and to deny relief on its good-faith claims in these cases that publication will work serious damage to the country. But that discomfort is considerably dispelled by the infrequency of prior-restraint cases. Normally, publication will occur and the damage be done before the Government has either opportunity or grounds for suppression. So here, publication has already begun and a substantial part of the threatened damage has already occurred. The fact of a massive breakdown in security is known, access to the documents by many unauthorized people is undeniable, and the efficacy of equitable relief against these or other newspapers to avert anticipated damage is doubtful at best.

What is more, terminating the ban on publication of the relatively few sensitive documents the Government now seeks to suppress does not mean that the law either requires or invites newspapers or others to publish them or that they will be immune from criminal action if they do. Prior restraints require an unusually heavy justification under the First Amendment; but failure by the Government to justify prior restraints does not measure its constitutional entitlement to a conviction for criminal publication. That the Government mistakenly chose to proceed by injunction does not mean that it could not successfully proceed in another way.

When the Espionage Act was under consideration in 1917, Congress eliminated from the bill a provision that would have given the President broad powers in time of war to proscribe, under threat of criminal penalty, the publication of various categories of information related to the national defense.<sup>3</sup> Congress at that time was unwilling to clothe the President with such far-reaching powers to monitor the press, and those opposed to this part of the legislation assumed that a necessary concomitant of such power was the power to "filter out the news to the people through some man." 55 Cong. Rec. 2008 (remarks of Sen. Ashurst). However, these same members of Congress appeared to have little doubt that newspapers would be subject to criminal prosecution if they insisted on publishing information of the type Congress had itself determined should not be revealed. Senator Ashurst, for example, was quite sure that the editor of such a newspaper "should be punished if he did publish information as to the movements of the fleet, the troops, the aircraft, the location of powder factories, the location of defense works, and all that sort of thing." *Id.*, at 2009.<sup>4</sup>

<sup>3</sup> "Whoever, in time of war, in violation of reasonable regulations to be prescribed by the President, which he is hereby authorized to make and promulgate, shall publish any information with respect to the movement, numbers, description, condition, or disposition of any of the armed forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense calculated to be useful to the enemy, shall be punished by a fine \*\*\* or by imprisonment \* \* \*." 55 Cong. Rec. 2100.

<sup>4</sup> Senator Ashurst also urged that "freedom of the press' means freedom from the restraints of a censor, means the absolute liberty and right to publish whatever you wish; but you take your chances of punishment in the courts of your country for the violation of the laws of libel, slander, and treason." 55 Cong. Rec. 2005.



The Criminal Code contains numerous provisions potentially relevant to these cases. Section 797<sup>5</sup> makes it a crime to publish certain photographs or drawings of military installations. Section 798,<sup>6</sup> also in precise language, proscribes knowing and willful publication of any classified information concerning the cryptographic systems or communication intelligence activities of the United States as well as any information obtained from communication intelligence operations.<sup>7</sup> If any of the material here at issue is of this nature, the newspapers are presumably now on full notice of the position of the United States and must face the consequences if they publish. I would have no difficulty in sustaining convictions under these sections on facts that would not justify the intervention of equity and the imposition of a prior restraint.

The same would be true under those sections of the Criminal Code casting a wider net to protect the national defense. Section 793 (e)<sup>8</sup>

<sup>5</sup> Title 18 U.S.C. § 707 provides:

"On and after thirty days from the date upon which the President defines any vital military or naval installation or equipment as being within the category contemplated under section 795 of this title, whoever reproduces, publishes, sells, or gives away any photograph, sketch, picture, drawing, map, or graphical representation of the vital military or naval installations or equipment so defined, without first obtaining permission of the commanding officer of the military or naval post, camp, or station concerned, or higher authority, unless such photograph, sketch, picture, drawing, map, or graphical representation has clearly indicated thereon that it has been censored by the proper military or naval authority, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

<sup>6</sup> In relevant part 18 U.S.C. § 798 provides:

"(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

"(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

"(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

"(3) concerning the communication intelligence activities of the United States or any foreign government; or

"(4) obtained by the process of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

"Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both."

<sup>7</sup> The purport of 18 U.S.C. § 798 is clear. Both the House and Senate Reports on the bill, in identical terms, speak of furthering the security of the United States by preventing disclosure of information concerning the cryptographic systems and the communication intelligence systems of the United States, and explaining that "[t]his bill makes it a crime to reveal the methods, techniques, and material used in the transmission by this Nation of enciphered or coded messages \* \* \*. Further, it makes it a crime to reveal methods used by this Nation in breaking the secret codes of a foreign nation. It also prohibits under certain penalties the divulging of any information which may have come into this Government's hands as a result of such a code-breaking." H.R. Rep. No. 1895, 81st Cong., 2d Sess. 1 (1950). The narrow reach of the statute was explained as covering "only a small category of classified matter, a category which is both vital and vulnerable to an almost unique degree." *Id.*, at 2. Existing legislation was deemed inadequate.

"At present two other acts protect this information, but only in a limited way. These are the Espionage Act of 1917 (40 Stat. 217) and the act of June 10, 1933 (48 Stat. 122). Under the first, unauthorized revelation of information of this kind can be penalized only if it can be proved that the person making the revelation did so with an intent to injure the United States. Under the second, only diplomatic codes and messages transmitted in diplomatic codes are protected. The present bill is designed to protect against knowing and willful publication or any other revelation of all important information affecting the United States communication intelligence operations and all direct information about all United States codes and ciphers." *Ibid.*

Section 798 obviously was intended to cover publications by nonemployees of the Government and to ease the Government's burden in obtaining convictions. See H.R. Rep. No. 1895, *supra*, at 2-5. The identical Senate Report, not cited in parallel in the text of this footnote, is S. Rep. No. 111, 81st Cong., 1st Sess. (1949).

<sup>8</sup> Section 793(3) of 18 U.S.C. provides that:

"(e) Whoever having unauthorized possession of, access to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage



makes it a criminal act for any unauthorized possessor of a document "relating to the national defense" either (1) willfully to communicate or cause to be communicated that document to any person not entitled to receive it or (2) willfully to retain the document and fail to deliver it to an officer of the United States entitled to receive it. The subsection was added in 1950 because pre-existing law provided no penalty for the unauthorized possessor unless demand for the documents was made.<sup>9</sup> "The dangers surrounding the unauthorized possession of such items are self-evident, and it is deemed advisable to require their surrender in such a case, regardless of demand, especially since their unauthorized possession may be unknown to the authorities who would otherwise make the demand." S. Rep. No. 2369, pt. 1, 81st Cong., 2d Sess., 9 (1950). Of course, in the cases before us, the unpublished documents have been demanded by the United States and their import has been made known at least to

of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it;"

is guilty of an offense punishable by 10 years in prison, a \$10,000 fine, or both. It should also be noted that 18 U.S.C. § 793(g), added in 1950 (see 64 Stat. 1004; S. Rep. No. 2369, pt. 1, 81st Cong., 2d Sess., 9 (1950)) provides that "[i]f two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy."

The amendment of § 793 that added subsection (e) was part of the Subversive Activities Control Act of 1950, which was in turn Title I of the Internal Security Act of 1950. See 64 Stat. 987. The report of the Senate Judiciary Committee best explains the purposes of the amendment:

"Section 18 of the bill amends section 793 of title 18 of the United States Code (espionage statute). The several paragraphs of section 793 of title 18 are designated as subsections (a) through (g) for purposes of convenient reference. The significant changes which would be made in section 793 of title 18 are as follows:

"(1) Amends the fourth paragraph of section 793, title 18 (subsec. (d)), to cover the unlawful dissemination of information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation. *The phrase 'which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation' would modify only 'information relating to the national defense' and not the other items enumerated in the subsection. The fourth paragraph of section 793 is also amended to provide that only those with lawful possession of the items relating to national defense enumerated therein may retain them subject to demand therefor. Those who have unauthorized possession of such items are treated in a separate subsection.*

"(2) Amends section 793, title 18 (subsec. (e)), to provide that unauthorized possessors of items enumerated in paragraph 4 of section 793 must surrender possession thereof to the proper authorities without demand. Existing law provides no penalty for the unauthorized possession of such items unless a demand for them is made by the person entitled to receive them. The dangers surrounding the unauthorized possession of such items are self-evident, and it is deemed advisable to require their surrender in such a case, regardless of demand, especially since their unauthorized possession may be unknown to the authorities who would otherwise make the demand. The only difference between subsection (d) and subsection (e) of section 793 is that a demand by the person entitled to receive the items would be a necessary element of an offense under subsection (d) where the possession is lawful, whereas such a demand would not be a necessary element of an offense under subsection (e) where the possession is unauthorized." S. Rep. No. 2369, pt. 1, 81st Cong., 2d Sess., 8-9 (1950) (emphasis added).

It seems clear from the foregoing, contrary to intimations of the District Court for the Southern District of New York in this case, that in prosecuting for communicating or withholding a "document" as contrasted with similar action with respect to "information" the Government need not prove an intent to injure the United States or to benefit a foreign nation but only willful and knowing conduct. The District Court relied on *Gorin v. United States*, 312 U. S. 19 (1941). But that case arose under other parts of the predecessor to § 793, see 312 U. S., at 21-22—parts that imposed different intent standards not repeated in § 793(d) or § 793(e). Cf. 18 U. S. C. §§ 793(a), (b), and (c). Also, from the face of subsection (e) and from the context of the Act of which it was a part, it seems undeniable that a newspaper, as well as others unconnected with the Government, are vulnerable to prosecution under § 793(e) if they communicate or withhold the materials covered by that section. The District Court ruled that "communication" did not reach publication by a newspaper of documents relating to the national defense. I intimate no views on the correctness of that conclusion. But neither communication nor publication is necessary to violate the subsection.

counsel for the newspapers involved. In *Gorin v. United States*, 312 U.S. 19, 28 (1941), the words "national defense" as used in a predecessor of § 793 were held by a unanimous Court to have "a well understood connotation"—a "generic concept of broad connotations, referring to the military and naval establishments and the related activities of national preparedness"—and to be "sufficiently definite to apprise the public of prohibited activities" and to be consonant with due process. 312 U.S., at 28. Also, as construed by the Court in *Gorin*, information "connected with the national defense" is obviously not limited to that threatening "grave and irreparable" injury to the United States.<sup>10</sup>

It is thus clear that Congress has addressed itself to the problems of protecting the security of the country and the national defense from unauthorized disclosure of potentially damaging information. Cf. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585-586 (1952): see also *id.*, at 593-628 (Frankfurter, J., concurring). It has not, however, authorized the injunctive remedy against threatened publication. It has apparently been satisfied to rely on criminal sanctions and their deterrent effect on the responsible as well as the irresponsible press. I am not, of course, saying that either of these newspapers has yet committed a crime or that either would commit a crime if it published all the material now in its possession. That matter must await resolution in the context of a criminal proceeding if one is instituted by the United States. In that event, the issue of guilt or innocence would be determined by procedures and standards quite different from those that have purported to govern these injunctive proceedings.

MR. JUSTICE MARSHALL, concurring.

The Government contends that the only issue in these cases is whether in a suit by the United States, "the First Amendment bars a court from prohibiting a newspaper from publishing material whose disclosure would pose a 'grave and immediate danger to the security of the United States.'" Brief for the United States 7. With all due respect, I believe the ultimate issue in these cases is even more basic than the one posed by the Solicitor General. The issue is whether this Court or the Congress has the power to make law.

In these cases there is no problem concerning the President's power to classify information as "secret" or "top secret." Congress has specifically recognized Presidential authority, which has been formally exercised in Exec. Order 10501 (1953), to classify documents and information. See, e.g., 18 U.S.C. § 798; 50 U.S.C. § 783.<sup>1</sup> Nor is there any issue here regarding the President's power as Chief Executive and Commander in Chief to protect national security by disciplining employees who disclose information and by taking precautions to prevent leaks.

The problem here is whether in these particular cases the Executive Branch has authority to invoke the equity jurisdiction of the

<sup>10</sup> Also relevant is 18 U. S. C. § 794. Subsection (b) thereof forbids in time of war the collection or publication, with intent that it shall be communicated to the enemy, of any information with respect to the movements of military forces, "or with respect to the plans or conduct \* \* \* of any naval or military operations \* \* \* or any other information relating to the public defense, which might be useful to the enemy \* \* \*".

<sup>1</sup> See n. 3, *infra*.

courts to protect what it believes to be the national interest. See *In re Debs*, 158 U.S. 564, 584 (1895). The Government argues that in addition to the inherent power of any government to protect itself, the President's power to conduct foreign affairs and his position as Commander in Chief give him authority to impose censorship on the press to protect his ability to deal effectively with foreign nations and to conduct the military affairs of the country. Of course, it is beyond cavil that the President has broad powers by virtue of his primary responsibility for the conduct of our foreign affairs and his position as Commander in Chief. *Chicago & Southern Air Lines v. Waterman S. S. Corp.*, 333 U.S. 103 (1948); *Hirabayashi v. United States*, 320 U.S. 81, 93 (1943); *United States v. Curtiss-Wright Corp.*, 299 U.S. 304 (1936).<sup>2</sup> And in some situations it may be that under whatever inherent powers the Government may have, as well as the implicit authority derived from the President's mandate to conduct foreign affairs and to act as Commander in Chief, there is a basis for the invocation of the equity jurisdiction of this Court as an aid to prevent the publication of material damaging to "national security," however that term may be defined.

It would, however, be utterly inconsistent with the concept of separation of powers for this Court to use its power of contempt to prevent behavior that Congress has specifically declined to prohibit. There would be a similar damage to the basic concept of these co-equal branches of Government if when the Executive Branch has adequate authority granted by Congress to protect "national security" it can choose instead to invoke the contempt power of a court to enjoin the threatened conduct. The Constitution provides that Congress shall make laws, the President execute laws, and courts interpret laws. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952). It did not provide for government by injunction in which the courts and the Executive Branch can "make law" without regard to the action of Congress. It may be more convenient for the Executive Branch if it need only convince a judge to prohibit conduct rather than ask the Congress to pass a law, and it may be more convenient to enforce a contempt order than to seek a criminal conviction in a jury trial. Moreover, it may be considered politically wise to get a court to share the responsibility for arresting those who the Executive Branch has probable cause to believe are violating the law. But convenience and political considerations of the moment do not justify a basic departure from the principles of our system of government.

In these cases we are not faced with a situation where Congress has failed to provide the Executive with broad power to protect the Nation from disclosure of damaging state secrets. Congress has on several occasions given extensive consideration to the problem of protecting the military and strategic secrets of the United States. This consideration has resulted in the enactment of statutes making it a crime to receive, disclose, communicate, withhold, and publish certain documents, photographs, instruments, appliances, and information. The bulk of these statutes is found in chapter 37 of U.S.C.,

<sup>2</sup> But see *Kent v. Dulles*, 357 U.S. 116 (1958); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

Title 18, entitled Espionage and Censorship.<sup>3</sup> In that chapter, Congress has provided penalties ranging from a \$10,000 fine to death for violating the various statutes.

Thus it would seem that in order for this Court to issue an injunction it would require a showing that such an injunction would enhance the already existing power of the Government to act. See *Bennett v. Laman*, 277 N.Y. 368, 14 N.E. 2d 439 (1938). It is a traditional axiom of equity that a court of equity will not do a useless thing just as it is a traditional axiom that equity will not enjoin the commission of a crime. See *Z. Chafee & E. Re*, Equity 935-954 (5th ed. 1967); 1 H. Joyce, *Injunctions* §§ 58-60a (1909). Here there has been no attempt to make such a showing. The Solicitor General does not even mention in his brief whether the Government considers that there is probable cause to believe a crime has been committed or whether there is a conspiracy to commit future crimes.

If the Government had attempted to show that there was no effective remedy under traditional criminal law, it would have had to show that there is no arguably applicable statute. Of course, at this stage this Court could not and cannot determine whether there has been a violation of a particular statute or decide the constitutionality of any statute. Whether a good-faith prosecution could have been instituted under any statute could, however, be determined.

At least one of the many statutes in this area seems relevant to these cases. Congress has provided in 18 U.S.C. § 793(e) that whoever "having unauthorized possession of, access to, or control over any document, writing, code book, signal book \* \* \* or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits \* \* \* the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it \* \* \* [s]hall be fined not more than \$10,000 or imprisoned not more than ten years,

<sup>3</sup> There are several other statutory provisions prohibiting and punishing the dissemination of information, the disclosure of which Congress thought sufficiently imperiled national security to warrant that result. These include 42 U. S. C. §§ 2161 through 2166 relating to the authority of the Atomic Energy Commission to classify and declassify "Restricted Data" ["Restricted Data" is a term of art employed uniquely by the Atomic Energy Act]. Specifically, 42 U. S. C. § 2162 authorizes the Atomic Energy Commission to classify certain information. Title 42, U. S. C. § 2274, subsection (a), provides penalties for a person who "communicates, transmits, or discloses [restricted data] \* \* \* with intent to injure the United States or with intent to secure an advantage to any foreign nation \* \* \* ." Subsection (b) of § 2274 provides lesser penalties for one who "communicates, transmits, or discloses" such information "with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation \* \* \* ." Other sections of Title 42 of the United States Code dealing with atomic energy prohibit and punish acquisition, removal, concealment, tampering with, alteration, mutilation, or destruction of documents incorporating "Restricted Data" and provide penalties for employees and former employees of the Atomic Energy Commission, the armed services, contractors and licensees of the Atomic Energy Commission. Title 42 U. S. C. §§ 2276, 2277. Title 50 U. S. C. App. § 781, 56 Stat. 390, prohibits the making of any sketch or other representation of military installations or any military equipment located on any military installation, as specified; and indeed Congress in the National Defense Act of 1940, 54 Stat. 676, as amended, 56 Stat. 179, conferred jurisdiction on federal district courts over civil actions "to enjoin any violation" thereof. 50 U. S. C. App. § 1152 (6). Title 50 U. S. C. § 783(b) makes it unlawful for any officers or employees of the United States or any corporation which is owned by the United States to communicate material which has been "classified" by the President to any person who that governmental employee knows or has reason to believe is an agent or representative of any foreign government or any Communist organization.



or both." Congress has also made it a crime to conspire to commit any of the offenses listed in 18 U.S.C. § 793(e).

It is true that Judge Gurfein found that Congress had not made it a crime to publish the items and material specified in § 793(e). He found that the words "communicates, delivers, transmits \* \* \*" did not refer to publication of newspaper stories. And that view has some support in the legislative history and conforms with the past practice of using the statute only to prosecute those charged with ordinary espionage. But see 103 Cong. Rec. 10449 (remarks of Sen. Humphrey). Judge Gurfein's view of the statute is not, however, the only plausible construction that could be given. See my Brother WHITE's concurring opinion.

Even if it is determined that the Government could not in good faith bring criminal prosecutions against the New York Times and the Washington Post, it is clear that Congress has specifically rejected passing legislation that would have clearly given the President the power he seeks here and made the current activity of the newspapers unlawful. When Congress specifically declines to make conduct unlawful it is not for this Court to redecide those issues—to overrule Congress. See *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

On at least two occasions Congress has refused to enact legislation that would have made the conduct engaged in here unlawful and given the President the power that he seeks in this case. In 1917 during the debate over the original Espionage Act, still the basic provisions of § 793, Congress rejected a proposal to give the President in time of war or threat of war authority to directly prohibit by proclamation the publication of information relating to national defense that might be useful to the enemy. The proposal provided that:

"During any national emergency resulting from a war to which the United States is a party, or from threat of such a war, the President may, by proclamation, declare the existence of such emergency and, by proclamation, prohibit the publishing or communicating of, or the attempting to publish or communicate any information relating to the national defense which, in his judgment, is of such character that it is or might be useful to the enemy. Whoever violates any such prohibition shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than 10 years, or both: *Provided*, That nothing in this section shall be construed to limit or restrict any discussion, comment, or criticism of the acts or policies of the Government or its representatives or the publication of the same." 55 Cong. Rec. 1763.

Congress rejected this proposal after war against Germany had been declared even though many believed that there was a grave national emergency and that the threat of security leaks and espionage was serious. The Executive Branch has not gone to Congress and requested that the decision to provide such power be reconsidered. Instead, the Executive Branch comes to this Court and asks that it be granted the power Congress refused to give.



In 1957 the United States Commission on Government Security found that "[a]irplane journals, scientific periodicals, and even the daily newspaper have featured articles containing information and other data which should have been deleted in whole or in part for security reasons." In response to this problem the Commission proposed that "Congress enact legislation making it a crime for any person willfully to disclose without proper authorization, for any purpose whatever, information classified 'secret' or 'top secret,' knowing, or having reasonable grounds to believe, such information to have been so classified." Report of Commission on Government Security 619-620 (1957). After substantial floor discussion on the proposal, it was rejected. See 103 Cong. Rec. 10447-10450. If the proposal that Sen. Cotton championed on the floor had been enacted, the publication of the documents involved here would certainly have been a crime. Congress refused, however, to make it a crime. The Government is here asking this Court to remake that decision. This Court has no such power.

Either the Government has the power under statutory grant to use traditional criminal law to protect the country or, if there is no basis for arguing that Congress has made the activity a crime, it is plain that Congress has specifically refused to grant the authority the Government seeks from this Court. In either case this Court does not have authority to grant the requested relief. It is not for this Court to fling itself into every breach perceived by some Government official nor is it for this Court to take on itself the burden of enacting law, especially a law that Congress has refused to pass.

I believe that the judgment of the United States Court of Appeals for the District of Columbia Circuit should be affirmed and the judgment of the United States Court of Appeals for the Second Circuit should be reversed insofar as it remands the case for further hearings.

**MR. CHIEF JUSTICE BURGER, dissenting.**

So clear are the constitutional limitations on prior restraint against expression, that from the time of *Near v. Minnesota*, 283 U.S. 697 (1931), until recently in *Organization for a Better Austin v. Keefe*, 402 U.S. 415 (1971), we have had little occasion to be concerned with cases involving prior restraints against news reporting on matters of public interest. There is, therefore, little variation among the members of the Court in terms of resistance to prior restraints against publication. Adherence to this basic constitutional principle, however, does not make these cases simple. In these cases, the imperative of a free and unfettered press comes into collision with another imperative, the effective functioning of a complex modern government and specifically the effective exercise of certain constitutional powers of the Executive. Only those who view the First Amendment as an absolute in all circumstances—a view I respect, but reject—can find such cases as these to be simple or easy.

These cases are not simple for another and more immediate reason. We do not know the facts of the cases. No District Judge knew all the facts. No Court of Appeals judge knew all the facts. No member of this Court knows all the facts.

Why are we in this posture, in which only those judges to whom the First Amendment is absolute and permits of no restraint in any circumstances or for any reason, are really in a position to act?

I suggest we are in this posture because these cases have been conducted in unseemly haste. MR. JUSTICE HARLAN covers the chronology of events demonstrating the hectic pressures under which these cases have been processed and I need not restate them. The prompt setting of these cases reflects our universal abhorrence of prior restraint. But prompt judicial action does not mean unjudicial haste.

Here, moreover, the frenetic haste is due in large part to the manner in which the Times proceeded from the date it obtained the purloined documents. It seems reasonably clear now that the haste precluded reasonable and deliberate judicial treatment of these cases and was not warranted. The precipitate action of this Court aborting trials not yet completed is not the kind of judicial conduct that ought to attend the disposition of a great issue.

The newspapers make a derivative claim under the First Amendment; they denominate this right as the public "right to know"; by implication, the Times asserts a sole trusteeship of that right by virtue of its journalistic "scoop." The right is asserted as an absolute. Of course, the First Amendment right itself is not an absolute, as Justice Holmes so long ago pointed out in his aphorism concerning the right to shout "fire" in a crowded theater if there was no fire. There are other exceptions, some of which Chief Justice Hughes mentioned by way of example in *Near v. Minnesota*. There are no doubt other exceptions no one has had occasion to describe or discuss. Conceivably such exceptions may be lurking in these cases and would have been flushed had they been properly considered in the trial courts, free from unwarranted deadlines and frenetic pressures. An issue of this importance should be tried and heard in a judicial atmosphere conducive to thoughtful, reflective deliberation, especially when haste, in terms of hours, is unwarranted in light of the long period the Times, by its own choice, deferred publication.<sup>1</sup>

It is not disputed that the Times has had unauthorized possession of the documents for three to four months, during which it has had its expert analysts studying them, presumably digesting them and preparing the material for publication. During all of this time, the Times, presumably in its capacity as trustee of the public's "right to know," has held up publication for purposes it considered proper and thus public knowledge was delayed. No doubt this was for a good reason; the analysis of 7,000 pages of complex material drawn from a vastly greater volume of material would inevitably take time and the writing of good news stories takes time. But why should the United States Government, from whom this information was illegally acquired by someone, along with all the counsel, trial judges, and appellate judges be placed under needless pressure? After these

<sup>1</sup>As noted elsewhere the Times conducted its analysis of the 47 volumes of Government documents over a period of several months and did so with a degree of security that a government might envy. Such security was essential, of course, to protect the enterprise from others. Meanwhile the Times has copyrighted its material and there were strong intimations in the oral argument that the Times contemplated enjoining its use by any other publisher in violation of its copyright. Paradoxically this would afford it a protection, analogous to prior restraint, against all others—a protection the Times denies the Government of the United States.

months of deferral, the alleged "right to know" has somehow and suddenly become a right that must be vindicated instantaneously.

Would it have been unreasonable, since the newspaper could anticipate the Government's objections to release of secret material, to give the Government an opportunity to review the entire collection and determine whether agreement could be reached on publication? Stolen or not, if security was not in fact jeopardized, much of the material could no doubt have been declassified, since it spans a period ending in 1968. With such an approach—one that great newspapers have in the past practiced and stated editorially to be the duty of an honorable press—the newspapers and Government might well have narrowed the area of disagreement as to what was and was not publishable, leaving the remainder to be resolved in orderly litigation, if necessary. To me it is hardly believable that a newspaper long regarded as a great institution in American life would fail to perform one of the basic and simple duties of every citizen with respect to the discovery or possession of stolen property or secret government documents. That duty, I had thought—perhaps naively—was to report forthwith, to responsible public officers. This duty rests on taxi drivers, Justices, and the *New York Times*. The course followed by the *Times*, whether so calculated or not, removed any possibility of orderly litigation of the issues. If the action of the judges up to now has been correct, that result is sheer happenstance.<sup>2</sup>

Our grant of the writ of certiorari before final judgment in the *Times* case aborted the trial in the District Court before it had made a complete record pursuant to the mandate of the Court of Appeals for the Second Circuit.

The consequence of all this melancholy series of events is that we literally do not know what we are acting on. As I see it, we have been forced to deal with litigation concerning rights of great magnitude without an adequate record, and surely without time for adequate treatment either in the prior proceedings or in this Court. It is interesting to note that counsel on both sides, in oral argument before this Court, were frequently unable to respond to questions on factual points. Not surprisingly they pointed out that they had been working literally "around the clock" and simply were unable to review the documents that give rise to these cases and were not familiar with them. This Court is in no better posture. I agree generally with MR. JUSTICE HARLAN and MR. JUSTICE BLACKMUN but I am not prepared to reach the merits.<sup>3</sup>

I would affirm the Court of Appeals for the Second Circuit and allow the District Court to complete the trial aborted by our grant of certiorari, meanwhile preserving the status quo in the *Post* case. I would direct that the District Court on remand give priority to the

<sup>3</sup> With respect to the question of inherent power of the Executive to classify papers, records, and documents as secret, or otherwise unavailable for public exposure, and to secure aid of the courts for enforcement, there may be an analogy with respect to this Court. No statute gives this Court express power to establish and enforce the utmost security measures for the secrecy of our deliberations and records. Yet I have little doubt as to the inherent power of the Court to protect the confidentiality of its internal operations by whatever judicial measures may be required.

<sup>2</sup> Interestingly the *Times* explained its refusal to allow the Government to examine its own purloined documents by saying in substance this might compromise *its* sources and informants! The *Times* thus asserts a right to guard the secrecy of its sources while denying that the Government of the United States has that power.

*Times* case to the exclusion of all other business of that court but I would not set arbitrary deadlines.

I should add that I am in general agreement with much of what Mr. Justice WHITE has expressed with respect to penal sanctions concerning communication or retention of documents or information relating to the national defense.

We all crave speedier judicial processes but when judges are pressured as in these cases the result is a parody of the judicial function.

MR. JUSTICE HARLAN, with whom THE CHIEF JUSTICE and MR. JUSTICE BLACKMUN join, dissenting.

These cases forcefully call to mind the wise admonition of Mr. Justice Holmes, dissenting in *Northern Securities Co. v. United States*, 13 U.S. 197, 400-401 (1904) :

"Great cases like hard cases make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment. These immediate interests exercise a kind of hydraulic pressure which makes what previously was clear seem doubtful, and before which even well settled principles of law will bend."

With all respect, I consider that the Court has been almost irresponsibly feverish in dealing with these cases.

Both the Court of Appeals for the Second Circuit and the Court of Appeals for the District of Columbia Circuit rendered judgment on June 23. The New York Times' petition for certiorari, its motion for accelerated consideration thereof, and its application for interim relief were filed in this Court on June 24 at about 11 a.m. The application of the United States for interim relief in the *Post* case was also filed here on June 24 at about 7:15 p.m. This Court's order setting a hearing before us on June 26 at 11 a.m., a course which I joined only to avoid the possibility of even more peremptory action by the Court, was issued less than 24 hours before. The record in the *Post* case was filed with the Clerk shortly before 1 p.m. on June 25; the record in the *Times* case did not arrive until 7 or 8 o'clock that same night. The briefs of the parties were received less than two hours before argument on June 26.

This frenzied train of events took place in the name of the presumption against prior restraints created by the First Amendment. Due regard for the extraordinarily important and difficult questions involved in these litigations should have led the Court to shun such a precipitate timetable. In order to decide the merits of these cases properly, some or all of the following questions should have been faced:

1. Whether the Attorney General is authorized to bring these suits in the name of the United States. Compare *In re Debs*, 158 U.S. 564 (1895), with *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952). This question involves as well the construction and validity of a singularly opaque statute—the Espionage Act, 18 U.S.C. § 793(c).

2. Whether the First Amendment permits the federal courts to enjoin publication of stories which would present a serious threat to



national security. See *Near v. Minnesota*, 283 U.S. 697, 716 (1931) (dictum).

3. Whether the threat to publish highly secret documents is of itself a sufficient implication of national security to justify an injunction on the theory that regardless of the contents of the documents harm enough results simply from the demonstration of such a breach of secrecy.

4. Whether the unauthorized disclosure of any of these particular documents would seriously impair the national security.

5. What weight should be given to the opinion of high officers in the Executive Branch of the Government with respect to questions 3 and 4.

6. Whether the newspapers are entitled to retain and use the documents notwithstanding the seemingly uncontested facts that the documents, or the originals of which they are duplicates, were purloined from the Government's possession and that the newspapers received them with knowledge that they had been feloniously acquired. Cf. *Liberty Lobby, Inc. v. Pearson*, 129 U.S. App. D.C. 74, 390 F. 2d 489 (1967, amended 1968).

7. Whether the threatened harm to the national security or the Government's possessory interest in the documents justifies the issuance of an injunction against publication in light of—

a. The strong First Amendment policy against prior restraints on publication;

b. The doctrine against enjoining conduct in violation of criminal statutes; and

c. The extent to which the materials at issue have apparently already been otherwise disseminated.

These are difficult questions of fact, of law, and of judgment; the potential consequences of erroneous decision are enormous. The time which has been available to us, to the lower courts,\* and to the parties has been wholly inadequate for giving these cases the kind of consideration they deserve. It is a reflection on the stability of the judicial process that these great issues—as important as any that have arisen during my time on the Court—should have been decided under the pressures engendered by the torrent of publicity that has attended these litigations from their inception.

Forced as I am to reach the merits of these cases, I dissent from the opinion and judgments of the Court. Within the severe limitations imposed by the time constraints under which I have been required to operate, I can only state my reasons in telescoped form, even though in different circumstances I would have felt constrained to deal with the cases in the fuller sweep indicated above.

It is a sufficient basis for affirming the Court of Appeals for the Second Circuit in the *Times* litigation to observe that its order must rest on the conclusion that because of the time elements the Government had not been given an adequate opportunity to present its case

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\*The hearing in the *Post* case before Judge Gesell began at 8 a.m. on June 21, and his decision was rendered, under the hammer of a deadline imposed by the Court of Appeals, shortly before 5 p.m. on the same day. The hearing in the *Times* case before Judge Garfein was held on June 18 and his decision was rendered on June 19. The Government's appeals in the two cases were heard by the Courts of Appeals for the District of Columbia and Second Circuits, each court sitting *en banc*, on June 22. Each court rendered its decision on the following afternoon.



to the District Court. At the least this conclusion was not an abuse of discretion.

In the *Post* litigation the Government had more time to prepare; this was apparently the basis for the refusal of the Court of Appeals for the District of Columbia Circuit on rehearing to conform its judgment to that of the Second Circuit. But I think there is another and more fundamental reason why this judgment cannot stand—a reason which also furnishes an additional ground for not reinstating the judgment of the District Court in the *Times* litigation, set aside by the Court of Appeals. It is plain to me that the scope of the judicial function in passing upon the activities of the Executive Branch of the Government in the field of foreign affairs is very narrowly restricted. This view is, I think, dictated by the concept of separation of powers upon which our constitutional system rests.

In a speech on the floor of the House of Representatives, Chief Justice John Marshall, then a member of that body, stated:

“The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations.” 10 *Annals of Cong.* 613 (1800).

From that time, shortly after the founding of the Nation, to this, there has been no substantial challenge to this description of the scope of executive power. See *United States v. Curtiss-Wright Corp.*, 299 U.S. 304, 319–321 (1936), collecting authorities.

From this constitutional primacy in the field of foreign affairs, it seems to me that certain conclusions necessarily follow. Some of these were stated concisely by President Washington, declining the request of the House of Representatives for the papers leading up to the negotiation of the Jay Treaty:

“The nature of foreign negotiations requires caution, and their success must often depend on secrecy; and even when brought to a conclusion a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolitic; for this might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers.” 1 *J. Richardson, Messages and Papers of the Presidents* 194–195 (1896).

The power to evaluate the “pernicious influence” of premature disclosure is not, however, lodged in the Executive alone. I agree that, in performance of its duty to protect the values of the First Amendment against political pressures, the judiciary must review the initial Executive determination to the point of satisfying itself that the subject matter of the dispute does lie within the proper compass of the President’s foreign relations power. Constitutional considerations forbid “a complete abandonment of judicial control.” Cf. *United States v. Reynolds*, 345 U.S. 1, 8 (1953). Moreover, the judiciary may properly insist that the determination that disclosure of the subject matter would irreparably impair the national security be made by the head of the Executive Department concerned—here the Secretary of State or the Secretary of Defense—after actual personal consideration by that officer. This safeguard is required in the analogous area of executive claims of privilege for secrets of state.

See *id.*, at 8 and n. 20; *Duncan v. Cammell, Laird & Co.*, [1942] A.C. 624, 638 (House of Lords).

But in my judgment the judiciary may not properly go beyond these two inquiries and redetermine for itself the probable impact of disclosure on the national security.

"[T]he very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confided by our Constitution to the political departments of the government, Executive and Legislative. They are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry." *Chicago & Southern Air Lines v. Waterman Steamship Corp.*, 333 U.S. 103, 111 (1948) (Jackson, J.).

Even if there is some room for the judiciary to override the executive determination, it is plain that the scope of review must be exceedingly narrow. I can see no indication in the opinions of either the District Court or the Court of Appeals in the *Post* litigation that the conclusions of the Executive were given even the deference owing to an administrative agency, much less that owing to a co-equal branch of the Government operating within the field of its constitutional prerogative.

Accordingly, I would vacate the judgment of the Court of Appeals for the District of Columbia Circuit on this ground and remand the case for further proceedings in the District Court. Before the commencement of such further proceedings, due opportunity should be afforded the Government for procuring from the Secretary of State or the Secretary of Defense or both an expression of their views on the issue of national security. The ensuing review by the District Court should be in accordance with the views expressed in this opinion. And for the reasons stated above I would affirm the judgment of the Court of Appeals for the Second Circuit.

Pending further hearings in each case conducted under the appropriate ground rules, I would continue the restraints on publication. I cannot believe that the doctrine prohibiting prior restraints reaches to the point of preventing courts from maintaining the *status quo* long enough to act responsibly in matters of such national importance as those involved here.

MR. JUSTICE BLACKMUN, dissenting.

I join MR. JUSTICE HARLAN in his dissent. I also am in substantial accord with much that MR. JUSTICE WHITE says, by way of admonition, in the latter part of his opinion.

At this point the focus is on *only* the comparatively few documents specified by the Government as critical. So far as the other material—vast in amount—is concerned, let it be published and published forthwith if the newspapers, once the strain is gone and the sensationalism is eased, still feel the urge so to do.

But we are concerned here with the few documents specified from the 47 volumes. Almost 70 years ago Mr. Justice Holmes, dissenting in a celebrated case, observed:

"Great cases like hard cases make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment. These immediate interests exercise a kind of hydraulic pressure \*\*\*." *Northern Securities Co. v. United States*, 193 U.S. 197, 400-401 (1904).

The present cases, if not great, are at least unusual in their posture and implications, and the Holmes observation certainly has pertinent application.

The New York Times clandestinely devoted a period of three months to examining the 47 volumes that came into its unauthorized possession. Once it had begun publication of material from those volumes, the New York case now before us emerged. It immediately assumed, and ever since has maintained, a frenetic pace and character. Seemingly, once publication started, the material could not be made public fast enough. Seemingly, from then on, every deferral or delay, by restraint or otherwise, was abhorrent and was to be deemed violative of the First Amendment and of the public's "right immediately to know." Yet that newspaper stood before us at oral argument and professed criticism of the Government for not lodging its protest earlier than by a Monday telegram following the initial Sunday publication.

The District of Columbia case is much the same.

Two federal district courts, two United States courts of appeals, and this Court—within a period of less than three weeks from inception until today—have been pressed into hurried decision of profound constitutional issues on inadequately developed and largely assumed facts without the careful deliberation that, one would hope, should characterize the American judicial process. There has been much writing about the law and little knowledge and less digestion of the facts. In the New York case the judges, both trial and appellate, had not yet examined the basic material when the case was brought here. In the District of Columbia case, little more was done, and what was accomplished in this respect was only on required remand, with the Washington Post, on the excuse that it was trying to protect its source of information, initially refusing to reveal what material it actually possessed, and with the District Court forced to make assumptions as to that possession.

With such respect as may be due to the contrary view, this, in my opinion, is not the way to try a lawsuit of this magnitude and asserted importance. It is not the way for federal courts to adjudicate, and to be required to adjudicate, issues that allegedly concern the Nation's vital welfare. The country would be none the worse off were the cases tried quickly, to be sure, but in the customary and properly deliberative manner. The most recent of the material, it is said, dates no later than 1968, already about three years ago, and the Times itself took three months to formulate its plan of procedure and, thus, deprived its public for that period.

The First Amendment, after all, is only one part of an entire Constitution. Article II of the great document vests in the Executive Branch primary power over the conduct of foreign affairs and places in that branch the responsibility for the Nation's safety. Each provision of the Constitution is important, and I cannot subscribe to a doctrine of unlimited absolutism for the First Amendment at the cost of downgrading other provisions. First Amendment absolutism has never commanded a majority of this Court. See, for example, *Near v. Minnesota*, 283 U.S. 697, 708 (1931), and *Schenck v. United States*, 249 U.S. 47, 52 (1919). What is needed here is a weighing, upon properly developed standards, of the broad right of the press to print and of the very narrow right of the Government to prevent. Such standards are not yet developed. The parties here are in disagreement as to what those standards should be. But even the newspapers concede that there are situations where restraint is in order and is constitutional. Mr. Justice Holmes gave us a suggestion when he said in *Schenck*,

"It is a question of proximity and degree. When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right." 249 U.S., at 52.

I therefore would remand these cases to be developed expeditiously, of course, but on a schedule permitting the orderly presentation of evidence from both sides, with the use of discovery, if necessary, as authorized by the rules, and with the preparation of briefs, oral argument, and court opinions of a quality better than has been seen to this point. In making this last statement, I criticize no lawyer or judge. I know from past personal experience the agony of time pressure in the preparation of litigation. But these cases and the issues involved and the courts, including this one, deserve better than has been produced thus far.

It may well be that if these cases were allowed to develop as they should be developed, and to be tried as lawyers should try them and as courts should hear them, free of pressure and panic and sensationalism, other light would be shed on the situation and contrary considerations, for me, might prevail. But that is not the present posture of the litigation.

The Court, however, decides the cases today the other way. I therefore add one final comment.

I strongly urge, and sincerely hope, that these two newspapers will be fully aware of their ultimate responsibilities to the United States of America. Judge Wilkey, dissenting in the District of Columbia case, after a review of only the affidavits before his court (the basic papers had not then been made available by either party), concluded that there were a number of examples of documents that, if in the possession of the Post, and if published, "could clearly result in great harm to the nation," and he defined "harm" to mean "the death of soldiers, the destruction of alliances, the greatly increased difficulty of negotiation with our enemies, the inability of our diplomats to negotiate \* \* \*." I, for one, have now been able to give at least some cursory study not only to the affidavits, but to the

material itself. I regret to say that from this examination I fear that Judge Wilkey's statements have possible foundation. I therefore share his concern. I hope that damage has not already been done. If, however, damage has been done, and if, with the Court's action today, these newspapers proceed to publish the critical documents and there results therefrom "the death of soldiers, the destruction of alliances, the greatly increased difficulty of negotiation with our enemies, the inability of our diplomats to negotiate," to which list I might add the factors of prolongation of the war and of further delay in the freeing of United States prisoners, then the Nation's people will know where the responsibility for these sad consequences rests.



UNITED STATES *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF MICHIGAN ET AL. (PLAMONDON ET AL., REAL PARTIES IN  
INTEREST)

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE  
SIXTH CIRCUIT

No. 70-153. Argued February 24, 1972—Decided June 19, 1972

The United States charged three defendants with conspiring to destroy, and one of them with destroying, Government property. In response to the defendants' pretrial motion for disclosure of electronic surveillance information, the Government filed an affidavit of the Attorney General stating that he had approved the wiretaps for the purpose of "gather[ing] intelligence information deemed necessary to protect the nation from attempts of domestic organizations to attack and subvert the existing structure of the Government." On the basis of the affidavit and surveillance logs (filed in a sealed exhibit), the Government claimed that the surveillances, though warrantless, were lawful as a reasonable exercise of presidential power to protect the national security. The District Court, holding the surveillances violative of the Fourth Amendment, issued an order for disclosure of the overheard conversations, which the Court of Appeals upheld. Title III of the Omnibus Crime Control and Safe Streets Act, which authorizes court-approved electronic surveillance for specified crimes, contains a provision in 18 U.S.C. § 2511(3) that nothing in that law limits the President's constitutional power to protect against the overthrow of the Government or against "any other clear and present danger to the structure or existence of the Government." The Government relies on § 2511(3) in support of its contention that "in excepting national security surveillances from the Act's warrant requirement, Congress recognized the President's authority to conduct such surveillances without prior judicial approval." *Held:*

1. Section 2511(3) is merely a disclaimer of congressional intent to define presidential powers in matters affecting national security, and is not a grant of authority to conduct warrantless national security surveillances. Pp. 301-308.

2. The Fourth Amendment (which shields private speech from unreasonable surveillance) requires prior judicial approval for the type of domestic security surveillance involved in this case. Pp. 314-321; 323-324.

(a) The Government's duty to safeguard domestic security must be weighed against the potential danger that unreasonable surveillances pose to individual privacy and free expression. Pp. 314-315.

(939)

(b) The freedoms of the Fourth Amendment cannot properly be guaranteed if domestic security surveillances are conducted solely within the discretion of the executive branch without the detached judgment of a neutral magistrate. Pp. 316-318.

(c) Resort to appropriate warrant procedure would not frustrate the legitimate purposes of domestic security searches. Pp. 318-321.

444 F. 2d 651, affirmed.

POWELL, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN, MARSHALL, STEWART, and BLACKMUN, JJ., joined. DOUGLAS, J., filed a concurring opinion, *post*, p. 324. BURGER, C. J., concurred in the result. WHITE, J., filed an opinion concurring in the judgment, *post*, p. 335. REHNQUIST, J., took no part in the consideration or decision of the case.

*Assistant Attorney General Mardian* argued the cause for the United States. With him on the briefs were *Solicitor General Griswold* and *Robert L. Keuch*.

*William T. Gossett* argued the cause for respondents the United States District Court for the Eastern District of Michigan et al. With him on the brief was *Abraham D. Sofaer*. *Arthur Kinoy* argued the cause for respondents *Sinclair et al.* With him on the brief were *William J. Bender* and *William Kunstler*.

Briefs of *amici curiae* urging affirmance were filed by *Stephen I. Schlossberg* for the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW), and by *Benjamin Dreyfus* for the Black Panther Party et al.

Briefs of *amici curiae* were filed by *Herman Schwartz*, *Melvin L. Wulf*, and *Erwin B. Ellmann* for the American Civil Liberties Union et al.; by *John Lichtenberg* for the American Federation of Teachers; and by the American Friends Service Committee.

MR. JUSTICE POWELL delivered the opinion of the Court.

The issue before us is an important one for the people of our country and their Government. It involves the delicate question of the President's power, acting through the Attorney General, to authorize electronic surveillance in internal security matters without prior judicial approval. Successive Presidents for more than one-quarter of a century have authorized such surveillance in varying degrees,<sup>1</sup> without guidance from the Congress or a definitive decision of this Court. This case brings the issue here for the first time. Its resolution is a matter of national concern, requiring sensitivity both to the Government's right to protect itself from unlawful subversion and attack and to the citizen's right to be secure in his privacy against unreasonable Government intrusion.

This case arises from a criminal proceeding in the United States District Court for the Eastern District of Michigan, in which the United States charged three defendants with conspiracy to destroy Government property in violation of 18 U.S.C. § 371. One of the defendants, Plamondon, was charged with the dynamite bombing of an office of the Central Intelligence Agency in Ann Arbor, Michigan.

<sup>1</sup> See n. 10, *infra*.

During pretrial proceedings, the defendants moved to compel the United States to disclose certain electronic surveillance information and to conduct a hearing to determine whether this information "tainted" the evidence on which the indictment was based or which the Government intended to offer at trial. In response, the Government filed an affidavit of the Attorney General, acknowledging that its agents had overheard conversations in which Plamondon had participated. The affidavit also stated that the Attorney General approved the wiretaps "to gather intelligence information deemed necessary to protect the nation from attempts of domestic organizations to attack and subvert the existing structure of the Government."<sup>2</sup> The logs of the surveillance were filed in a sealed exhibit for *in camera* inspection by the District Court.

On the basis of the Attorney General's affidavit and the sealed exhibit, the Government asserted that the surveillance was lawful, though conducted without prior judicial approval, as a reasonable exercise of the President's power (exercised through the Attorney General) to protect the national security. The District Court held that the surveillance violated the Fourth Amendment, and ordered the Government to make full disclosure to Plamondon of his overheard conversations. 321 F. Supp. 1074 (ED Mich. 1971).

The Government then filed in the Court of Appeals for the Sixth Circuit a petition for a writ of mandamus to set aside the District Court order, which was stayed pending final disposition of the case. After concluding that it had jurisdiction,<sup>3</sup> that court held that the surveillance was unlawful and that the District Court had properly required disclosure of the overheard conversations, 444 F. 2d 651 (CA6 1971). We granted certiorari, 403 U. S. 930.

## I

Title III of the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. §§ 2510-2520, authorizes the use of electronic surveillance

<sup>2</sup> The Attorney General's affidavit reads as follows:

"JOHN N. MITCHELL being duly sworn deposes and says:

"1. I am the Attorney General of the United States.

"2. This affidavit is submitted in connection with the Government's opposition to the disclosure to the defendant Plamondon of information concerning the overhearing of his conversations which occurred during the course of electronic surveillances which the Government contends were legal.

"3. The defendant Plamondon has participated in conversations which were overheard by Government agents who were monitoring wiretaps which were being employed to gather intelligence information deemed necessary to protect the nation from attempts of domestic organizations to attack and subvert the existing structure of the Government. The records of the Department of Justice reflect the installation of these wiretaps had been expressly approved by the Attorney General.

"4. Submitted with this affidavit is a sealed exhibit containing the records of the intercepted conversations, a description of the premises that were the subjects of surveillances, and copies of the memoranda reflecting the Attorney General's express approval of the installation of the surveillances.

"5. I certify that it would prejudice the national interest to disclose the particular facts concerning these surveillances other than to the court *in camera*. Accordingly, the sealed exhibit referred to herein is being submitted solely for the court's *in camera* inspection and a copy of the sealed exhibit is not being furnished to the defendants. I would request the court, at the conclusion of its hearing on this matter, to place the sealed exhibit in a sealed envelope and return it to the Department of Justice where it will be retained under seal so that it may be submitted to any appellate court that may review this matter."

<sup>3</sup> Jurisdiction was challenged before the Court of Appeals on the ground that the District Court's order was interlocutory and not appealable under 28 U. S. C. § 1291. On this issue, the Court correctly held that it did have jurisdiction, relying upon the All Writs Act, 28 U. S. C. § 1651, and cases cited in its opinion, 444 F. 2d, at 655-656. No attack was made in the Court as to the appropriateness of the writ of mandamus procedure.

for classes of crimes carefully specified in 18 U.S.C. § 2516. Such surveillance is subject to prior court order. Section 2518 sets forth the detailed and particularized application necessary to obtain such an order as well as carefully circumscribed conditions for its use. The Act represents a comprehensive attempt by Congress to promote more effective control of crime while protecting the privacy of individual thought and expression. Much of Title III was drawn to meet the constitutional requirements for electronic surveillance enunciated by this Court in *Berger v. New York*, 388 U.S. 41 (1967), and *Katz v. United States*, 389 U.S. 347 (1967).

Together with the elaborate surveillance requirements in Title III, there is the following proviso, 18 U.S.C. § 2511(3) :

"Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1143; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. *Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government.* The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary to implement that power." (Emphasis supplied.)

The Government relies on § 2511 (3). It argues that "in excepting national security surveillances from the Act's warrant requirement Congress recognized the President's authority to conduct such surveillances without prior judicial approval." Brief for U. S. 7, 28. The section thus is viewed as a recognition or affirmance of a constitutional authority in the President to conduct warrantless domestic security surveillance such as that involved in this case.

We think the language of § 2511 (3), as well as the legislative history of the statute, refutes this interpretation. The relevant language is that :

"Nothing contained in this chapter \* \* \* shall limit the constitutional power of the President to take such measures as he deems necessary to protect \* \* \*"

against the dangers specified. At most, this is an implicit recognition that the President does have certain powers in the specified areas. Few would doubt this, as the section refers—among other things—to protection "against actual or potential attack or other hostile acts of a foreign power." But so far as the use of the President's electronic surveillance power is concerned, the language is essentially neutral.

Section 2511 (3) certainly confers no power, as the language is



wholly inappropriate for such a purpose. It merely provides that the Act shall not be interpreted to limit or disturb such power as the President may have under the Constitution. In short, Congress simply left presidential powers where it found them. This view is reinforced by the general context of Title III. Section 2511 (1) broadly prohibits the use of electronic surveillance "[e]xcept as otherwise specifically provided in this chapter." Subsection (2) thereof contains four specific exceptions. In each of the specified exceptions, the statutory language is as follows:

"It shall not be unlawful \* \* \* to intercept" the particular type of communication described.<sup>4</sup>

The language of subsection (3), here involved, is to be contrasted with the language of the exceptions set forth in the preceding subsection. Rather than stating that warrantless presidential uses of electronic surveillance "shall not be unlawful" and thus employing the standard language of exception, subsection (3) merely disclaims any intention to "limit the constitutional power of the President."

The express grant of authority to conduct surveillances is found in § 2516, which authorizes the Attorney General to make application to a federal judge when surveillance may provide evidence of certain offenses. These offenses are described with meticulous care and specificity.

Where the Act authorizes surveillance, the procedure to be followed is specified in § 2518. Subsection (1) thereof requires application to a judge of competent jurisdiction for a prior order of approval, and states in detail the information required in such application.<sup>5</sup> Subsection (3) prescribes the necessary elements of probable cause which the judge must find before issuing an order authorizing an interception. Subsection (4) sets forth the required contents of such an order. Subsection (5) sets strict time limits on an order. Provision is made in subsection (7) for "an emergency situa-

<sup>4</sup> These exceptions relate to certain activities of communication common carriers and the Federal Communications Commission, and to specified situations where a party to the communication has consented to the interception.

<sup>5</sup> 18 U. S. C. § 2518, subsection (1) reads as follows:

"§ 2518. Procedure for interception of wire or oral communications

"(1) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

"(a) the identity of the investigative or law enforcement officer making the application and the officer authorizing the application;

"(b) a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued including (i) details as to the particular offense that has been, is being, or is about to be committed, (ii) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted, (iv) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

"(c) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

"(d) a statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

"(e) a full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

"(f) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results."



tion" found to exist by the Attorney General (or by the principal prosecuting attorney of a State) "with respect to conspiratorial activities threatening the national security interest." In such a situation, emergency surveillance may be conducted "if an application for an order approving the interception is made \*\*\* within forty-eight hours." If such an order is not obtained, or the application therefor is denied, the interception is deemed to be a violation of the Act.

In view of these and other interrelated provisions delineating permissible interceptions of particular criminal activity upon carefully specified conditions, it would have been incongruous for Congress to have legislated with respect to the important and complex area of national security in a single brief and nebulous paragraph. This would not comport with the sensitivity of the problem involved or with the extraordinary care Congress exercised in drafting other sections of the Act. We therefore think the conclusion inescapable that Congress only intended to make clear that the Act simply did not legislate with respect to national security surveillances.<sup>6</sup>

The legislative history of § 2511 (3) supports this interpretation. Most relevant is the colloquy between Senators Hart, Holland, and McClellan on the Senate floor:

"Mr. HOLLAND \*\*\*. The section [2511(3)] from which the Senator [Hart] has read does not affirmatively give any power. \*\*\* *We are not affirmatively conferring any power upon the President.* We are simply saying that nothing herein shall limit such power as the President has under the Constitution \*\*\*. We certainly do not grant him a thing.

"There is nothing affirmative in this statement.

"Mr. McCLELLAN. Mr. President, *we make it understood that we are not trying to take anything away from him.*

"Mr. HOLLAND. The Senator is correct.

"Mr. HART. Mr. President, there is no intention here to expand by this language a constitutional power. Clearly we could not do so.

"Mr. McCLELLAN. Even though intended, we could not do so.

"Mr. HART \*\*\*. However, we are agreed that this language should not be regarded as intending to grant any authority, including authority to put a bug on, that the President does not have now.

"In addition, Mr. President, *as I think our exchange makes clear, nothing in section 2511 (3) even attempts to define the limits of the President's national security power under present law, which I have always found extremely vague \*\*\*. Section 2511 (3) merely says that if the President has such a power, then its exercise is in no way affected by title III.*"<sup>7</sup> (Emphasis supplied.)

<sup>6</sup> The final sentence of § 2511(3) states that the contents of an interception "by authority of the President in the exercise of the foregoing powers may be received in evidence \*\*\* only where such interception was reasonable \*\*\*." This sentence seems intended to assure that when the President conducts lawful surveillance—pursuant to whatever power he may possess—the evidence is admissible.

<sup>7</sup> 114 Cong. Rec. 14751. Senator McClellan was the sponsor of the bill. The above exchange constitutes the only time that § 2511(3) was expressly debated on the Senate or House floor. The Report of the Senate Judiciary Committee is not so explicit as the exchange on the floor, but it appears to recognize that under § 2511(3) the national security power of the President—whatever it may be—"is not to be deemed disturbed." S. Rept. No. 1097, 90th Cong., 2d Sess., 94 (1968). See also The "National Security Wiretap": Presidential Prerogative or Judicial Responsibility, where the author concludes that in § 2511(3) "Congress took what amounted to a position of neutral noninterference on the question of the constitutionality of warrantless national security wiretaps authorized by the President." 45 S. Cal. L. Rev. 888,889 (1972).

One could hardly expect a clearer expression of congressional neutrality. The debate above explicitly indicates that nothing in § 2511 (3) was intended to *expand* or to *contract* or to *define* whatever presidential surveillance powers existed in matters affecting the national security. If we could accept the Government's characterization of § 2511 (3) as a congressionally prescribed exception to the general requirement of a warrant, it would be necessary to consider the question of whether the surveillance in this case came within the exception and, if so, whether the statutory exception was itself constitutionally valid. But viewing § 2511 (3) as a congressional disclaimer and expression of neutrality, we hold that the statute is not the measure of the executive authority asserted in this case. Rather, we must look to the constitutional powers of the President.

## II

It is important at the outset to emphasize the limited nature of the question before the Court. This case raises no constitutional challenge to electronic surveillance as specifically authorized by Title III of the Omnibus Crime Control and Safe Streets Act of 1968. Nor is there any question or doubt as to the necessity of obtaining a warrant in the surveillance of crimes unrelated to the national security interest. *Katz v. United States*, 389 U.S. 347 (1967); *Berger v. New York*, 338 U.S. 41 (1967). Further, the instant case requires no judgment on the scope of the President's surveillance power with respect to the activities of foreign powers, within or without this country. The Attorney General's affidavit in this case states that the surveillances were "deemed necessary to protect the nation from attempts of *domestic organizations* to attack and subvert the existing structure of Government" (emphasis supplied). There is no evidence of any involvement, directly or indirectly, of a foreign power.<sup>8</sup>

Our present inquiry, though important, is therefore a narrow one. It addresses a question left open by *Katz, supra*, at 358 n. 23:

"Whether safeguards other than prior authorization by a magistrate would satisfy the Fourth Amendment in a situation involving the national security \* \* \*."

The determination of this question requires the essential Fourth Amendment inquiry into the "reasonableness" of the search and seizure in question, and the way in which that "reasonableness" derives content and meaning through reference to the warrant clause. *Coolidge v. New Hampshire*, 403 U.S. 443, 473-484 (1971).

<sup>8</sup> Section 2511 (3) refers to "the constitutional power of the President" in two types of situations: (i) where necessary to protect against attack, other hostile acts or intelligence activities of a "foreign power"; or (ii) where necessary to protect against the overthrow of the Government or other clear and present danger to the structure or existence of the Government. Although both of the specified situations are sometimes referred to as "national security" threats, the term "national security" is used only in the first sentence of § 2511 (3) with respect to the activities of foreign powers. This case involves only the second sentence of § 2511 (3), with the threat emanating—according to the Attorney General's affidavit—from "domestic organizations." Although we attempt no precise definition, we use the term "domestic organization" in this opinion to mean a group or organization (whether formally or informally constituted) composed of citizens of the United States and which has no significant connection with a foreign power, its agents or agencies. No doubt there are cases where it will be difficult to distinguish between "domestic" and "foreign" unlawful activities directed against the Government of the United States where there is collaboration in varying degrees between domestic groups or organizations and agents or agencies of foreign powers. But this is not such a case.

We begin the inquiry by noting that the President of the United States has the fundamental duty, under Art. II, § 1, of the Constitution, to "preserve, protect and defend the Constitution of the United States." Implicit in that duty is the power to protect our Government against those who would subvert or overthrow it by unlawful means. In the discharge of this duty, the President—through the Attorney General—may find it necessary to employ electronic surveillance to obtain intelligence information on the plans of those who plot unlawful acts against the Government.<sup>9</sup> The use of such surveillance in internal security cases has been sanctioned more or less continuously by various Presidents and Attorneys General since July 1946.<sup>10</sup> Herbert Brownell, Attorney General under President Eisenhower, urged the use of electronic surveillance both in internal and international security matters on the grounds that those acting against the Government

"turn to the telephone to carry on their intrigue. The success of their plans frequently rests upon piecing together shreds of information received from many sources and many nests. The participants in the conspiracy are often dispersed and stationed in various strategic positions in government and industry throughout the country."<sup>11</sup>

Though the Government and respondents debate their seriousness and magnitude, threats and acts of sabotage against the Government exist in sufficient number to justify investigative powers with respect to them.<sup>12</sup> The covertness and complexity of potential unlawful conduct against the Government and the necessary dependency of many conspirators upon the telephone make electronic surveillance an effective investigatory instrument in certain circumstances. The marked acceleration in technological developments and sophistication in their use have resulted in new techniques for the planning, commission, and concealment of criminal activities. It would be con-

<sup>9</sup> Enactment of Title III reflects congressional recognition of the importance of such surveillance in combatting various types of crime. Frank S. Hogan, District Attorney for New York County for over 25 years, described telephonic interception, pursuant to court order, as "the single most valuable weapon in law enforcement's fight against organized crime." 117 Cong. Rec. S 6476, May 10, 1971. The "Crime Commission" appointed by President Johnson noted that "[t]he great majority of law enforcement officials believe that the evidence necessary to bring criminal sanctions to bear consistently on the higher echelons of organized crime will not be obtained without the aid of electronic surveillance techniques. They maintain these techniques are indispensable to develop adequate strategic intelligence concerning organized crime, to set up specific investigations, to develop witnesses, to corroborate their testimony, and to serve as substitutes for them—each a necessary step in the evidence-gathering process in organized crime investigations and prosecutions." Report by the President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* 201 (1967).

<sup>10</sup> In that month Attorney General Tom Clark advised President Truman of the necessity of using wiretaps "in cases vitally affecting the domestic security." In May 1940 President Roosevelt had authorized Attorney General Jackson to utilize wiretapping in matters "involving the defense of the nation," but it is questionable whether this language was meant to apply to solely domestic subversion. The nature and extent of wiretapping apparently varied under different administrations and Attorneys General, but, except for the sharp curtailment under Attorney General Ramsey Clark in the latter years of the Johnson administration, electronic surveillance has been used both against organized crime and in domestic security cases at least since the 1946 memorandum from Clark to Truman. Brief for U.S. 16-18; Resp. Brief 51-56; 117 Cong. Rec. S 6476-6477, May 10, 1971.

<sup>11</sup> Brownell, *The Public Security and Wire Tapping*, 39 Cornell L. Q. 195, 202 (1954). See also Rogers, *The Case For Wire Tapping*, 63 Yale L. J. 792 (1954).

<sup>12</sup> The Government asserts that there were 1,562 bombing incidents in the United States from January 1, 1971, to July 1, 1971, most of which involved Government related facilities. Respondents dispute these statistics as incorporating many frivolous incidents as well as bombings against nongovernmental facilities. The precise level of this activity, however, is not relevant to the disposition of this case. Brief for U. S. 18; Resp. Brief, 26-29; Reply Brief for U. S. 13.

trary to the public interest for Government to deny to itself the prudent and lawful employment of those very techniques which are employed against the Government and its law-abiding citizens.

It has been said that "[t]he most basic function of any government is to provide for the security of the individual and of his property." *Miranda v. Arizona*, 384 U.S. 436, 539 (1966) (WHITE, J., dissenting). And unless Government safeguards its own capacity to function and to preserve the security of its people, society itself could become so disordered that all rights and liberties would be endangered. As Chief Justice Hughes reminded us in *Cox v. New Hampshire*, 312 U.S. 569, 574 (1941):

"Civil liberties, as guaranteed by the Constitution, imply the existence of an organized society maintaining public order without which liberty itself would be lost in the excesses of unrestrained abuses."

But a recognition of these elementary truths does not make the employment by Government of electronic surveillance a welcome development—even when employed with restraint and under judicial supervision. There is, understandably, a deep-seated uneasiness and apprehension that this capability will be used to intrude upon cherished privacy of law-abiding citizens.<sup>13</sup> We look to the Bill of Rights to safeguard this privacy. Though physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed, its broader spirit now shields private speech from unreasonable surveillance. *Katz v. United States*, *supra*; *Berger v. New York*, *supra*; *Silverman v. United States*, 365 U.S. 505 (1961). Our decision in *Katz* refused to lock the Fourth Amendment into instances of actual physical trespass. Rather, the Amendment governs "not only the seizure of tangible items, but extends as well to the recording of oral statements \* \* \* without any 'technical trespass under \* \* \* local property law.'" *Katz*, *supra*, at 353. That decision implicitly recognized that the broad and unsuspected governmental incursions into conversational privacy which electronic surveillance entails<sup>14</sup> necessitate the application of Fourth Amendment safeguards.

National security cases, moreover, often reflect a convergence of First and Fourth Amendment values not present in cases of "ordinary" crime. Though the investigative duty of the executive may be stronger in such cases, so also is there greater jeopardy to constitutionally protected speech. "Historically the struggle for freedom of speech and press in England was bound up with the issue of the scope of the search and seizure power." *Marcus v. Search Warrant*, 367 U.S. 717, 724 (1961). History abundantly documents the tendency of Government—however benevolent and benign its motives—to view with suspicion those who most fervently dispute its policies.

<sup>13</sup> Professor Alan Westin has written on the likely course of future conflict between the value of privacy and the "new technology" of law enforcement. Much of the book details techniques of physical and electronic surveillance and such possible threats to personal privacy as psychological and personality testing and electronic information storage and retrieval. Not all of the contemporary threats to privacy emanate directly from the pressures of crime control. *Privacy and Freedom* (1967).

<sup>14</sup> Though the total number of intercepts authorized by state and federal judges pursuant to Tit. III of the 1968 Omnibus Crime Control and Safe Streets Act was 597 in 1970, each surveillance may involve interception of hundreds of different conversations. The average intercept in 1970 involved 44 people and 655 conversations, of which 295 of 45% were incriminating. 117 Cong. Rec. S. 6477, May 10, 1971.



Fourth Amendment protections become the more necessary when the targets of official surveillance may be those suspected of unorthodoxy in their political beliefs. The danger to political dissent is acute where the Government attempts to act under so vague a concept as the power to protect "domestic security." Given the difficulty of defining the domestic security interest, the danger of abuse in acting to protect that interest becomes apparent. Senator Hart addressed this dilemma in the floor debate on § 2511 (3):

"As I read it—and this is my fear—we are saying that the President, on his motion, could declare—name your favorite poison—draft dodgers, Black Muslims, the Ku Klux Klan, or civil rights activists to be a clear and present danger to the structure or existence of the Government."<sup>15</sup>

The price of lawful public dissent must not be a dread of subjection to an unchecked surveillance power. Nor must the fear of unauthorized official eavesdropping deter vigorous citizen dissent and discussion of Government action in private conversation. For private dissent, no less than open public discourse, is essential to our free society.

### III

As the Fourth Amendment is not absolute in its terms, our task is to examine and balance the basic values at stake in this case: the duty of Government to protect the domestic security, and the potential danger posed by unreasonable surveillance to individual privacy and free expression. If the legitimate need of Government to safeguard domestic security requires the use of electronic surveillance, the question is whether the needs of citizens for privacy and free expression may not be better protected by requiring a warrant before such surveillance is undertaken. We must also ask whether a warrant requirement would unduly frustrate the efforts of Government to protect itself from acts of subversion and overthrow directed against it.

Though the Fourth Amendment speaks broadly of "unreasonable searches and seizures," the definition of "reasonableness" turns, at least in part, on the more specific commands of the warrant clause. Some have argued that "[t]he relevant test is not whether it is reasonable to procure a search warrant, but whether the search was reasonable," *United States v. Rabinowitz*, 339 U.S. 56, 66 (1950).<sup>16</sup> This view, however, overlooks the second clause of the Amendment. The warrant clause of the Fourth Amendment is not dead language. Rather, it has been

"a valued part of our constitutional law for decades, and it has determined the result in scores and scores of cases in courts all over this country. It is not an inconvenience to be somehow

<sup>15</sup> 114 Cong. Rec. 14750. The subsequent assurances, quoted in part I of the opinion, that § 2511 (3) implied no statutory grant, contraction, or definition of presidential power eased the Senator's misgivings.

<sup>16</sup> This view has not been accepted. In *Chimel v. California*, 395 U. S. 752 (1969), the Court considered the Government's contention that the search be judged on a general "reasonableness" standard without reference to the warrant clause. The Court concluded that argument was "founded on little more than a subjective view regarding the acceptability of certain sorts of police conduct, and not on considerations relevant to Fourth Amendment interests. Under such an unconfined analysis, Fourth Amendment protection in this area would approach the evaporation point." *Id.*, at 764-765.



'weighed' against the claims of police efficiency. It is, or should be, an important working part of our machinery of government, operating as a matter of course to check the 'well-intentioned but mistakenly over-zealous executive officers' who are a part of any system of law enforcement." *Coolidge v. New Hampshire*, 403 U.S., at 481.

See also *United States v. Rabinowitz*, *supra*, at 68 (Frankfurter, J., dissenting); *Davis v. United States*, 328 U.S. 582, 604 (1946) (Frankfurter, J., dissenting).

Over two centuries ago, Lord Mansfield held that common-law principles prohibited warrants that ordered the arrest of unnamed individuals whom the officer might conclude were guilty of seditious libel. "It is not fit," said Mansfield, "that the receiving or judging of the information should be left to the discretion of the officer. The magistrate ought to judge; and should give certain directions to the officer." *Leach v. Three of the King's Messengers*, 19 How. St. Tr. 1001, 1027 (1765).

Lord Mansfield's formulation touches the very heart of the Fourth Amendment directive: that, where practical, a governmental search and seizure should represent both the efforts of the officer to gather evidence of wrongful acts and the judgment of the magistrate that the collected evidence is sufficient to justify invasion of a citizen's private premises or conversation. Inherent in the concept of a warrant is its issuance by a "neutral and detached magistrate." *Coolidge v. New Hampshire*, *supra*, at 453; *Katz v. United States*, *supra*, at 356. The further requirement of "probable cause" instructs the magistrate that baseless searches shall not proceed.

These Fourth Amendment freedoms cannot properly be guaranteed if domestic security surveillances may be conducted solely within the discretion of the executive branch. The Fourth Amendment does not contemplate the executive officers of Government as neutral and disinterested magistrates. Their duty and responsibility is to enforce the laws, to investigate, and to prosecute. *Katz v. United States*, *supra*, at 359-360 (DOUGLAS, J., concurring). But those charged with this investigative and prosecutorial duty should not be the sole judges of when to utilize constitutionally sensitive means in pursuing their tasks. The historical judgment, which the Fourth Amendment accepts, is that unreviewed executive discretion may yield too readily to pressures to obtain incriminating evidence and overlook potential invasions of privacy and protected speech.<sup>17</sup>

It may well be that, in the instant case, the Government's surveillance of Plamondon's conversations was a reasonable one which readily would have gained prior judicial approval. But this Court "has never sustained a search upon the sole ground that officers reasonably expected to find evidence of a particular crime and voluntarily confined their activities to the least intrusive means consistent with that end." *Katz*, *supra*, at 356-357. The Fourth Amendment contemplates a prior judicial judgment,<sup>18</sup> not the risk that executive discretion may be reasonably exercised. This judicial role accords

<sup>17</sup> N. LASSON, *The History and Development of the Fourth Amendment to the United States Constitution* 79-105 (1937).

<sup>18</sup> We use the word "judicial" to connote the traditional Fourth Amendment requirement of a neutral and detached magistrate.

with our basic constitutional doctrine that individual freedoms will best be preserved through a separation of powers and division of functions among the different branches and levels of Government. John M. Harlan, *Thoughts at a Dedication: Keeping the Judicial Function in Balance*, 49 A. B. A. J. 943-944 (1963). The independent check upon executive discretion is not satisfied, as the Government argues, by "extremely limited" post-surveillance judicial review.<sup>19</sup> Indeed, post-surveillance review would never reach the surveillances which failed to result in prosecutions. Prior review by a neutral and detached magistrate is the time-tested means of effectuating Fourth Amendment rights. *Beck v. Ohio*, 379 U.S. 89, 96 (1964).

It is true that there have been some exceptions to the warrant requirement. *Chimel v. California*, 395 U.S. 752 (1969); *Terry v. Ohio*, 392 U.S. 1 (1968); *McDonald v. United States*, 335 U.S. 451 (1948); *Carroll v. United States*, 267 U.S. 132 (1925). But those exceptions are few in number and carefully delineated, *Katz, supra*, at 357; in general, they serve the legitimate needs of law enforcement officers to protect their own well-being and preserve evidence from destruction. Even while carving out those exceptions, the Court has reaffirmed the principle that the "police must, whenever practicable, obtain advance judicial approval of searches and seizures through the warrant procedure," *Terry v. Ohio, supra*, at 20; *Chimel v. California, supra*, at 762.

The Government argues that the special circumstances applicable to domestic security surveillances necessitate a further exception to the warrant requirement. It is urged that the requirement of prior judicial review would obstruct the President in the discharge of his constitutional duty to protect domestic security. We are told further that these surveillances are directed primarily to the collecting and maintaining of intelligence with respect to subversive forces, and are not an attempt to gather evidence for specific criminal prosecutions. It is said that this type of surveillance should not be subject to traditional warrant requirements which were established to govern investigation of criminal activity, not ongoing intelligence gathering. Brief for U.S. 15-16, 23-24. Reply Brief for U.S. 2-3.

The Government further insists that courts "as a practical matter would have neither the knowledge nor the techniques necessary to determine whether there was probable cause to believe that surveillance was necessary to protect national security." These security problems, the Government contends, involve "a large number of complex and subtle factors" beyond the competence of courts to evaluate. Reply Brief for U.S. 4.

As a final reason for exemption from a warrant requirement, the Government believes that disclosure to a magistrate of all or even a significant portion of the information involved in domestic security surveillances "would create serious potential dangers to the national security and to the lives of informants and agents \* \* \*. Secrecy is

<sup>19</sup> The Government argues that domestic security wiretaps should be upheld by courts in post-surveillance review "[u]nless it appears that the Attorney General's determination that the proposed surveillance relates to a national security matter is arbitrary and capricious, i.e., that it constitutes a clear abuse of the broad discretion that the Attorney General has to obtain all information that will be helpful to the President in protecting the Government \* \* \*" against the various unlawful acts in § 2511 (3). Brief for U. S. 22.

the essential ingredient in intelligence gathering; requiring prior judicial authorization would create a greater 'danger of leaks \* \* \*, because in addition to the judge, you have the clerk, the stenographer and some other officer like a law assistant or bailiff who may be apprised of the nature' of the surveillance." Brief for U.S. 24-25.

These contentions in behalf of a complete exemption from the warrant requirement, when urged on behalf of the President and the national security in its domestic implications, merit the most careful consideration. We certainly do not reject them lightly, especially at a time of worldwide ferment and when civil disorders in this country are more prevalent than in the less turbulent periods of our history. There is, no doubt, pragmatic force to the Government's position.

But we do not think a case has been made for the requested departure from Fourth Amendment standards. The circumstances described do not justify complete exemption of domestic security surveillance from prior judicial scrutiny. Official surveillance, whether its purpose be criminal investigation or ongoing intelligence gathering, risks infringement of constitutionally protected privacy of speech. Security surveillances are especially sensitive because of the inherent vagueness of the domestic security concept, the necessarily broad and continuing nature of intelligence gathering, and the temptation to utilize such surveillances to oversee political dissent. We recognize, as we have before, the constitutional basis of the President's domestic security role, but we think it must be exercised in a manner compatible with the Fourth Amendment. In this case we hold that this requires an appropriate prior warrant procedure.

We cannot accept the Government's argument that internal security matters are too subtle and complex for judicial evaluation. Courts regularly deal with the most difficult issues of our society. There is no reason to believe that federal judges will be insensitive to or uncomprehending of the issues involved in domestic security cases. Certainly courts can recognize that domestic security surveillance involves different considerations from the surveillance of "ordinary crime." If the threat is too subtle or complex for our senior law enforcement officers to convey its significance to a court, one may question whether there is probable cause for surveillance.

Nor do we believe prior judicial approval will fracture the secrecy essential to official intelligence gathering. The investigation of criminal activity has long involved imparting sensitive information to judicial officers who have respected the confidentialities involved. Judges may be counted upon to be especially conscious of security requirements in national security cases. Title III of the Omnibus Crime Control and Safe Streets Act already has imposed this responsibility on the judiciary in connection with such crimes as espionage, sabotage, and treason, § 2516 (1) (a) and (c), each of which may involve domestic as well as foreign security threats. Moreover, a warrant application involves no public or adversary proceedings: it is an *ex parte* request before a magistrate or judge. Whatever security dangers clerical and secretarial personnel may pose can be minimized by proper administrative measures, possibly to the point of allowing the Government itself to provide the necessary clerical assistance.

Thus, we conclude that the Government's concerns do not justify departure in this case from the customary Fourth Amendment requirement of judicial approval prior to initiation of a search or surveillance. Although some added burden will be imposed upon the Attorney General, this inconvenience is justified in a free society to protect constitutional values. Nor do we think the Government's domestic surveillance powers will be impaired to any significant degree. A prior warrant establishes presumptive validity of the surveillance and will minimize the burden of justification in post-surveillance judicial review. By no means of least importance will be the reassurance of the public generally that indiscriminate wiretapping and bugging of law-abiding citizens cannot occur.

#### IV

We emphasize, before concluding this opinion, the scope of our decision. As stated at the outset, this case involves only the domestic aspects of national security. We have not addressed, and express no opinion as to, the issues which may be involved with respect to activities of foreign powers or their agents.<sup>20</sup> Nor does our decision rest on the language of § 2511(3) or any other section of Title III of the Omnibus Crime Control and Safe Streets Act of 1968. That Act does not attempt to define or delineate the powers of the President to meet domestic threats to the national security.

Moreover, we do not hold that the same type of standards and procedures prescribed by Title III are necessarily applicable to this case. We recognize that domestic security surveillance may involve different policy and practical considerations from the surveillance of "ordinary crime." The gathering of security intelligence is often long range and involves the interrelation of various sources and types of information. The exact targets of such surveillance may be more difficult to identify than in surveillance operations against many types of crime specified in Title III. Often, too, the emphasis of domestic intelligence gathering is on the prevention of unlawful activity or the enhancement of the Government's preparedness for some possible future crisis or emergency. Thus, the focus of domestic surveillance may be less precise than that directed against more conventional types of crime.

Given these potential distinctions between Title III criminal surveillances and those involving the domestic security, Congress may wish to consider protective standards for the latter which differ from those already prescribed for specified crimes in Title III. Different standards may be compatible with the Fourth Amendment if they are reasonable both in relation to the legitimate need of Government for intelligence information and the protected rights of our citizens. For the warrant application may vary according to the governmental interest to be enforced and the nature of citizen rights

<sup>20</sup> See n. 8, *supra*. For the view that warrantless surveillance, though impermissible in domestic security cases, may be constitutional where foreign powers are involved, see *United States v. Smith*, 321 F. Supp. 424, 425-426 (CD Cal. 1971); and American Bar Association Project on Standards for Criminal Justice, *Electronic Surveillance* 120, 121 (Approved Draft 1971, and Feb. 1971 Supp. 11). See also *United States v. Clay*, 430 F. 2d 165 (1970).



deserving protection. As the Court said in *Camara v. Municipal Court*, 387 U.S. 523, 534-535 (1967):

"In cases in which the Fourth Amendment requires that a warrant to search be obtained, 'probable cause' is the standard by which a particular decision to search is tested against the constitutional mandate of reasonableness \* \* \*. In determining whether a particular inspection is reasonable—and thus in determining whether there is probable cause to issue a warrant for that inspection—the need for the inspection must be weighed in terms of these reasonable goals of code enforcement."

It may be that Congress, for example, would judge that the application and affidavit showing probable cause need not follow the exact requirements of § 2518 but should allege other circumstances more appropriate to domestic security cases; that the request for prior court authorization could, in sensitive cases, be made to any member of a specially designated court (*e.g.*, the District Court or Court of Appeals for the District of Columbia); and that the time-and-reporting requirements need not be so strict as those in § 2518.

The above paragraph does not, of course, attempt to guide the congressional judgment but rather to delineate the present scope of our own opinion. We do not attempt to detail the precise standards for domestic security warrants any more than our decision in *Katz* sought to set the refined requirements for the specified criminal surveillances which now constitute Title III. We do hold, however, that prior judicial approval is required for the type of domestic security surveillance involved in this case and that such approval may be made in accordance with such reasonable standards as the Congress may prescribe.

## V

As the surveillance of Plamondon's conversations was unlawful, because conducted without prior judicial approval, the courts below correctly held that *Alderman v. United States*, 394 U.S. 165 (1969), is controlling and that it requires disclosure to the accused of his own impermissibly intercepted conversations. As stated in *Alderman*, "the trial court can and should, where appropriate, place a defendant and his counsel under enforceable orders against unwarranted disclosure of the materials which they may be entitled to inspect." 394 U.S., at 185.<sup>21</sup>

The judgment of the Court of Appeals is hereby

*Affirmed.*

THE CHIEF JUSTICE concurs in the result.

MR. JUSTICE REHNQUIST took no part in the consideration or decision of this case.

MR. JUSTICE DOUGLAS, concurring.

While I join in the opinion of the Court, I add these words in support of it.

<sup>21</sup> We think it unnecessary at this time and on the facts of this case to consider the arguments advanced by the Government for a re-examination of the basis and scope of the Court's decision in *Alderman*.



This is an important phase in the campaign of the police and intelligence agencies to obtain exemptions from the Warrant Clause of the Fourth Amendment. For, due to the clandestine nature of electronic eavesdropping, the need is acute for placing on the Government the heavy burden to show that "exigencies of the situation [make its] course imperative."<sup>1</sup> Other abuses, such as the search incident to arrest, have been partly deterred by the threat of damage actions against offending officers,<sup>2</sup> the risk of adverse publicity, or the possibility of reform through the political process. These latter safeguards, however, are ineffective against lawless wiretapping and "bugging" of which their victims are totally unaware. Moreover, even the risk of exclusion of tainted evidence would here appear to be of negligible deterrent value inasmuch as the United States frankly concedes that the primary purpose of these searches is to fortify its intelligence collage rather than to accumulate evidence to support indictments and convictions. If the Warrant Clause were held inapplicable here, then the federal intelligence machine would literally enjoy unchecked discretion.

Here, federal agents wish to rummage for months on end through every conversation, no matter how intimate or personal, carried over selected telephone lines, simply to seize those few utterances which may add to their sense of the pulse of a domestic underground.

We are told that one national security wiretap lasted for 14 months and monitored over 900 conversations. Senator Edward Kennedy found recently that "warrantless devices accounted for an average of 78 to 200 days of listening per device, as compared with a 13-day per device average for those devices installed under court order."<sup>3</sup> He concluded that the Government's revelations posed "the frightening possibility that the conversations of untold thousands of citizens of this country are being monitored on secret devices which no judge has authorized and which may remain in operation for months and perhaps years at a time."<sup>4</sup> Even the most innocent and random caller who uses or telephones into a tapped line can become a flagged number in the Government's data bank. See *Laird v. Tatum*, 408 U.S. 1 (1972).

Such gross invasions of privacy epitomize the very evil to which the Warrant Clause was directed. This Court has been the unfortunate witness of the hazards of police intrusions which did not receive prior sanction by independent magistrates. For example, in *Weeks v. United States*, 232 U.S. 383; *Mapp v. Ohio*, 367 U.S. 643;

<sup>1</sup> *Coolidge v. New Hampshire*, 403 U.S. 443, 455; *McDonald v. United States*, 335 U.S. 451, 456; *Chimel v. California*, 395 U.S. 792; *United States v. Jeffers*, 342 U.S. 48, 51.

<sup>2</sup> See *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388.

<sup>3</sup> Letter from Senator Edward Kennedy to Members of the Subcommittee on Administrative Procedure and Practice of the Senate Judiciary Committee, Dec. 17, 1971, p. 2. Senator Kennedy included in his letter a chart comparing court-ordered and department-ordered wiretapping and bugging by federal agencies. This chart is reproduced in the Appendix to this opinion. For a statistical breakdown by duration, location, and implementing agency of the 1,042 wiretap orders issued in 1971 by state and federal judges, see Administrative Office of the United States Courts, Report on Applications for Orders Authorizing or Approving the Interception of Wire or Oral Communications for 1971; *The Washington Post*, May 14, 1972, p. A30, col 1 (final ed.)

<sup>4</sup> Kennedy, *supra* n. 3, at 2. See also H. Schwartz A Report on the Costs and Benefits of Electronic Surveillance (American Civil Liberties Union 1971); Schwartz, *The Legitimation of Electronic Eavesdropping: The Politics of "Law and Order,"* 67 Mich. L. Rev. 455 (1969).

and *Chimel v. California*, 395 U.S. 752, entire homes were ransacked pursuant to warrantless searches. Indeed, in *Kremen v. United States*, 353 U.S. 346, the *entire contents* of a cabin, totaling more than 800 items (such as "1 Dish Rag")<sup>5</sup> were seized incident to an arrest of its occupant and were taken to San Francisco for study by FBI agents. In a similar case, *Von Cleef v. New Jersey*, 395 U.S. 814, police, without a warrant, searched an arrestee's house for three hours, eventually seizing "several thousand articles, including books, magazines, catalogues, mailing lists, private correspondence (both open and unopened), photographs, drawings, and film." *Id.*, at 815. In *Silverthorne Lumber Co. v. United States*, 251 U.S. 385, federal agents "without a shadow of authority" raided the offices of one of the petitioners (the proprietors of which had earlier been jailed) and "made a clean sweep of all the books, papers and documents found there." Justice Holmes, for the Court, termed this tactic an "outrage." *Id.*, at 390, 391. In *Stanford v. Texas*, 379 U.S. 476, state police seized more than 2,000 items of literature, including the writings of Mr. Justice Black, pursuant to a general search warrant issued to inspect an alleged subversive's home.

That "domestic security" is said to be involved here does not draw this case outside the mainstream of Fourth Amendment law. Rather, the recurring desire of reigning officials to employ dragnet techniques to intimidate their critics lies at the core of that prohibition. For it was such excesses as the use of general warrants and the writs of assistance that led to the ratification of the Fourth Amendment. In *Entick v. Carrington*, 19 How. St. Tr. 1029, 95 Eng. Rep. 807, decided in 1765, one finds a striking parallel to the executive warrants utilized here. The Secretary of State had issued general executive warrants to his messengers authorizing them to roam about and to seize libelous material and libellants of the sovereign. Entick, a critic of the Crown, was the victim of one such general search during which his seditious publications were impounded. He brought a successful damage action for trespass against the messengers. The verdict was sustained on appeal. Lord Camden wrote that if such sweeping tactics were validated, then "the secret cabinets and bureaus of every subject in this kingdom will be thrown open to the search and inspection of a messenger, whenever the Secretary of State shall think fit to charge, or even to suspect, a person to be the author, printer, or publisher of a seditious libel." *Id.*, at 1063. In a related and similar proceeding, *Huckle v. Money*, 2 Wils. K. B. 206, 207, 95 Eng. Rep. 768, 769 (1763), the same judge who presided over Entick's appeal held for another victim of the same despotic practice, saying "[t]o enter a man's house by virtue of a nameless warrant, in order to procure evidence, is worse than the Spanish Inquisition. \* \* \*" See also *Wilkes v. Wood*, 19 How. St. Tr. 1153, 98 Eng. Rep. 489 (1763). As early as *Boyd v. United States*, 116 U.S. 616, 626, and as recently as *Stanford v. Texas*, *supra*, at 485-486; *Berger v. New York*, 388 U.S. 41, 49-50; and *Coolidge v. New Hampshire*, *supra*, at 455 n. 9, the tyrannical invasions described and assailed in *Entick*, *Huckle*, and *Wilkes*, practices which also

<sup>5</sup> For a complete itemization of the objects seized, see the Appendix to *Kremen v. United States*, 353 U. S. 346, 349.

were endured by the colonists,<sup>6</sup> have been recognized as the primary abuses which ensured the Warrant Clause a prominent place in our Bill of Rights. See J. Landynski, *Search and Seizure and the Supreme Court* 28-48 (1966). N. Lasson, *The History and Development of the Fourth Amendment to the United States Constitution* 43-78 (1937); Note, *Warrantless Searches In Light of Chimel: A Return To The Original Understanding*, 11 *Ariz. L. Rev.* 457, 460-476 (1969).

As illustrated by a flood of cases before us this Term, *e.g.*, *Laird v. Tatum*, 408 U.S. 1; *Gelbard v. United States*, 408 U.S. 41; *United States v. Egan*, 408 U.S. 41; *United States v. Caldwell*, 408 U.S. —; *United States v. Gravel*, 408 U.S. —; *Kleindienst v. Mandel*, 408 U.S. —; we are currently in the throes of another national seizure of paranoia, resembling the hysteria which surrounded the Alien and Sedition Acts, the Palmer Raids, and the McCarthy era. Those who register dissent or who petition their governments for redress are subjected to scrutiny by grand juries,<sup>7</sup> by the FBI,<sup>8</sup> or even by the military.<sup>9</sup> Their associates are interrogated. Their homes are bugged and their telephones are wiretapped. They are befriended by secret government informers.<sup>10</sup> Their patriotism and

<sup>6</sup> "On this side of the Atlantic, the argument concerning the validity of general search warrants centered around the writs of assistance which were used by customs officers for the detection of smuggled goods." N. Lasson, *The History And Development Of The Fourth Amendment To The United States Constitution* 51 (1937). In February 1761, all writs expired six months after the death of George II and Boston merchants petitioned the Superior Court in opposition to the granting of any new writs. The merchants were represented by James Otis, Jr., who later became a leader in the movement for independence.

"Otis completely electrified the large audience in the court room with his denunciation of England's whole policy toward the Colonies and with his argument against general warrants. John Adams, then a young man less than twenty-six years of age and not yet admitted to the bar, was a spectator, and many years later described the scene in these oft-quoted words: 'I do say in the most solemn manner, that Mr. Otis' oration against the Writs of Assistance breathed into this nation the breath of life.' He 'was a flame of fire! Every man from a crowded audience appeared to me to go away, as I did, ready to take arms against Writs of Assistance. Then and there was the first scene of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born. In 15 years, namely in 1776, he grew to manhood, and declared himself free.'" N. Lasson, *supra*, at 58-59.

<sup>7</sup> See Donner & Cerruti, *The Grand Jury Network: How the Nixon Administration Has Secretly Perverted A Traditional Safeguard Of Individual Rights*, 214 *The Nation* 5 (1972). See also *United States v. Caldwell*, 408 U.S. —; *United States v. Gravel*, 408 U.S. —; *Gelbard v. United States* and *United States v. Egan*, 408 U.S. 41. And see N. Y. Times, July 15, 1971, p. 6, col. 1 (grand jury investigation of N. Y. Times staff who published the Pentagon Papers).

<sup>8</sup> *E.g.*, N.Y. Times, April 12, 1970, p. 1, col. 2 (U.S. To Tighten Surveillance of Radicals); N.Y. Times, Dec. 14, 1969, p. 1, col. 1 ("F.B.I.'s Informants and Bugs Collect Data On Black Panthers"); the Washington Post, May 12, 1972, p. D21, col. 5 ("When the FBI Calls, Everybody Talks"); the Washington Post, May 16, 1972, p. B15, col. 5 ("Black Activists Are FBI Targets"); the Washington Post, May 17, 1972, p. B13, col. 5 ("Bedroom Peeking Sharpens FBI Files"). And, concerning an FBI investigation of Daniel Schorr, a television correspondent critical of the Government, see N.Y. Times, Nov. 11, 1971, p. 95, col. 5; and N.Y. Times, Nov. 12, 1971, p. 13, col. 1. For the wiretapping and bugging of Dr. Martin Luther King by the FBI, see V. Navasky, *Kennedy Justice* 135-155 (1971). For the wiretapping of Mrs. Eleanor Roosevelt and John L. Lewis by the FBI see Theoharis & Meyer, *The "National Security" Justification For Electronic Eavesdropping; An Elusive Exception*, 14 *Wayne L. Rev.* 749, 760-761 (1968).

<sup>9</sup> See *Laird v. Tatum*, 408 U. S. 1; see also Federal Data Banks, Computers and the Bill of Rights, Hearings before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 92d Cong., 1st Sess. (1971); N. Y. Times, Feb. 29, 1972, p. 1, col. 3.

<sup>10</sup> "Informers have been used for national security reasons throughout the twentieth century. They were deployed to combat what was perceived to be an internal threat from radicals during the early 1920's. When fears began to focus on Communism, groups thought to have some connection with the Communist Party were heavily infiltrated. Infiltration of the Party itself was so intense that one former FBI agent estimated a ratio of one informant for every 5.7 members in 1962. More recently, attention has shifted to militant antiwar and civil rights groups. In part because of support for such groups among university students throughout the country, informers seem to have become ubiquitous on campus. Some insight into the scope of the current use of informers was provided by the Media Papers, FBI documents stolen in early 1971 from a

loyalty are questioned.<sup>11</sup> Senator Sam Ervin, who has chaired hearings on military surveillance of civilian dissidents, warns that "it is not an exaggeration to talk in term of hundreds of thousands of \* \* \* dossiers."<sup>12</sup> Senator Kennedy, as mentioned *supra*, found "the frightening possibility that the conversations of untold thousands are being monitored on secret devices." More than our privacy is implicated. Also at stake is the reach of the Government's power to intimidate its critics.

When the Executive attempts to excuse these tactics as essential to its defense against internal subversion, we are obliged to remind it, without apology, of this Court's long commitment to the preservation of the Bill of Rights from the corrosive environment of precisely such expedients.<sup>13</sup> As Justice Brandeis said, concurring in *Whitney v. California*, 274 U.S. 357, 377: "[t]hose who won our independence by revolution were not cowards. They did not fear political change. They did not exalt order at the cost of liberty." Chief Justice Warren put it this way in *United States v. Robel*, 389 U.S. 258, 264: "[T]his concept of 'national defense' cannot be deemed an end in itself, justifying any \* \* \* power designed to promote such a goal. Implicit in the term 'national defense' is the notion of defending those values and ideas which set this Nation apart \* \* \*. It would indeed be ironic if, in the name of national defense, we would sanction the subversion of \* \* \* those liberties \* \* \* which make the defense of the Nation worthwhile."

The Warrant Clause has stood as a barrier against intrusions by officialdom into the privacies of life. But if that barrier were lowered now to permit suspected subversives' most intimate conversations to be pillaged then why could not their abodes or mail be secretly searched by the same authority? To defeat so terrifying a claim of inherent power we need only stand by the enduring values served by the Fourth Amendment. As we stated last Term in *Coolidge v. New*

Bureau office in Media, Pennsylvania. The papers disclose FBI attempts to infiltrate a conference of war resisters at Haverford College in August 1969, and a convention of the National Association of Black Students in June 1970. They also reveal FBI endeavors "to recruit informers, ranging from bill collectors to apartment janitors, in an effort to develop constant surveillance in black communities and New Left organizations" (N.Y. Times, April 8, 1971, p. 22, col. 1). In Philadelphia's black community, for instance, a whole range of buildings "including offices of the Congress of Racial Equality, the Southern Christian Leadership Conference [and] the Black Coalition" [*ibid.*] was singled out for surveillance by building employees and other similar informers working for the FBI." Note, Developments In The Law—The National Security Interest and Civil Liberties, 85 Harv. L. Rev. 1130, 1272-1273 (1972). For accounts of the impersonation of journalists by police, FBI agents and soldiers in order to gain the confidences of dissidents, see Press Freedoms Under Pressure, Report of the Twentieth Century Fund Task Force on the Government and the Press 29-34, 86-97 (1972). For the revelation of Army infiltration of political organizations and spying on Senators, Governors, and Congressmen, see Federal Data Banks, Computers and the Bill of Rights, Hearings before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 92d Cong., 1st Sess. (1971) (discussed in my dissent from the denial of certiorari in *Williamson v. United States*, 405 U.S. 1026). Among the Media Papers was the suggestion by the FBI that investigation of dissidents be stepped up in order to "enhance the paranoia endemic in these circles and [to] further serve to get the point across there is an FBI agent behind every mailbox." N.Y. Times, March 25, 1971, p. 33, col. 1.

<sup>11</sup> E.g., N.Y. Times, Feb. 8, 1972, p. 1, col. 8 (Senate peace advocates said, by presidential adviser, to be aiding and abetting the enemy).

<sup>12</sup> *Amicus curiae* brief submitted by Senator Sam Ervin in *Laird v. Tatum*, No. 71-288, O. T. 1971, p. 8.

<sup>13</sup> E.g., *New York Times Co. v. United States*, 403 U.S. 713; *Powell v. McCormack*, 395 U.S. 486; *United States v. Robel*, 389 U.S. 25, 264; *Aptheker v. Secretary of State*, 378 U.S. 500; *Baggett v. Bullitt*, 377 U.S. 360; *Yonagstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579; *Duncan v. Kabanamoku*, 327 U.S. 304; *White v. Steer*, 327 U.S. 304; *De Jonge v. Oregon*, 299 U.S. 353, 365; *Ex parte Milligan*, 4 Wall. 2; *Mitchell v. Harmony*, 13 How. 115. Note, The "National Security Wiretap"; Presidential Prerogative or Judicial Responsibility, 45 S. Cal. L. Rev. 888, 907-912 (1972).



*Hampshire*, 403 U.S. 443, 455: "In times of unrest, whether caused by crime or racial conflict or fear of internal subversion, this basic law and the values that it represents may appear unrealistic or 'extravagant' to some. But the values were those of the authors of our fundamental constitutional concepts. In times not altogether unlike our own they won \* \* \* a right of personal security against arbitrary intrusions \* \* \*. If times have changed, reducing everyman's scope to do as he pleases in an urban and industrial world, the changes have made the values served by the Fourth Amendment more, not less, important." We have as much or more to fear from the erosion of our sense of privacy and independence by the omnipresent electronic ear of the Government as we do from the likelihood that fomenters of domestic upheaval will modify our form of governing.<sup>14</sup>

## OCTOBER TERM, 1971

Appendix to opinion of DOUGLAS, J., concurring 407 U.S.

APPENDIX TO OPINION OF DOUGLAS, J.  
CONCURRING

## FEDERAL WIRETAPPING AND BUGGING 1969-1970

## Court Ordered Devices

## Executive Ordered Devices

Year	Number	Days in Use	Number	Days in Use	
				Minimum (Rounded)	Maximum (Rounded)
1969	30	462	94	8, 100	20, 800
1970	180	2, 363	113	8, 100	22, 600

Average Days in Use  
Per Device

Year	Ratio of Days Used Executive Ordered: Court Ordered		Court Ordered Devices	Executive Ordered Devices	
	Minimum	Maximum		Minimum	Maximum
1969	17. 5*	45. 0*	15. 4	86. 2	221. 3
1970	3. 4	9. 6	13. 1	71. 7	200. 0

\* Ratios for 1969 are less meaningful than those for 1970, since court-ordered surveillance program was in its initial stage in 1969.

Source:

(1) Letter from Assistant Attorney General Robert Mardian to Senator Edward M. Kennedy, March 1, 1971. Source figures withheld at request of Justice Department.

(2) Reports of Administrative Office of U.S. Courts for 1969 and 1970.

MR. JUSTICE WHITE, concurring in the judgment.

This case arises out of a two-count indictment charging conspiracy to injure and injury to Government property. Count I charged

<sup>14</sup> I continue in my belief that it would be extremely difficult to write a search warrant specifically naming the particular conversations to be seized and therefore any such attempt would amount to a general warrant, the very abuse condemned by the Fourth Amendment. As I said dissenting in *Osborn v. United States*, 3-5 U.S. 323, 353: "Such devices lay down a dragnet which indiscriminately sweeps in all conversations within its scope, without regard to the nature of the conversations, or the participants. A warrant authorizing such devices is no different from the general warrants the Fourth Amendment was intended to prohibit."



Robert Plamondon and two codefendants with conspiring with a fourth person to injure Government property with dynamite. Count II charged Plamondon alone with dynamiting and injuring Government property in Ann Arbor, Michigan. The defendants moved to compel the United States to disclose, among other things, any logs and records of electronic surveillance directed at them, at unindicted coconspirators, or at any premises of the defendants or coconspirators. They also moved for a hearing to determine whether any electronic surveillance disclosed had tainted the evidence on which the grand jury indictment was based and which the Government intended to use at trial. They asked for dismissal of the indictment if such taint were determined to exist. Opposing the motion, the United States submitted an affidavit of the Attorney General of the United States disclosing that "[t]he defendant Plamondon has participated in conversations which were overheard by Government agents who were monitoring wiretaps which were being employed to gather intelligence information deemed necessary to protect the nation from attempts of domestic organizations to attack and subvert the existing structure of the Government," the wiretaps having been expressly approved by the Attorney General. The records of the intercepted conversations and copies of the memorandum reflecting the Attorney General's approval were submitted under seal and solely for the Court's *in camera* inspection.<sup>1</sup>

As characterized by the District Court, the position of the United States was that the electronic monitoring of Plamondon's conversations without judicial warrant was a lawful exercise of the power of the President to safeguard the national security. The District Court granted the motion of defendants, holding that the President had no constitutional power to employ electronic surveillance without warrant to gather information about domestic organizations. Absent probable cause and judicial authorization, the challenged wiretap infringed Plamondon's Fourth Amendment rights. The court ordered the Government to disclose to defendants the records of the monitored conversations and directed that a hearing be held to determine the existence of taint either in the indictment or in the evidence to be introduced at trial.

The Government's petition for mandamus to require the District Court to vacate its order was denied by the Court of Appeals. 444 F. 2d 651 (CA6 1971). That court held that the Fourth Amendment barred warrantless electronic surveillance of domestic organizations even if at the direction of the President. It agreed with the District Court that because the wiretaps involved were therefore constitutionally infirm, the United States must turn over to defendants the records of overheard conversations for the purpose of determining whether the Government's evidence was tainted.

<sup>1</sup> The Attorney General's affidavit concluded:

"I certify that it would prejudice the national interest to disclose the particular facts concerning these surveillances other than to the court *in camera*. Accordingly, the sealed exhibit referred to herein is being submitted solely for the court's *in camera* inspection and a copy of the sealed exhibit is not being furnished to the defendants. I would request the court, at the conclusion of its hearing on this matter, to place the sealed exhibit in a sealed envelope and return it to the Department of Justice where it will be retained under seal so that it may be submitted to any appellate court that may review this matter." App. 20-21.

I would affirm the Court of Appeals but on the statutory ground urged by respondent Keith (Brief 115) without reaching or intimating any views with respect to the constitutional issue decided by both the District Court and the Court of Appeals.

Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 212, 18 U.S.C. § 2510-2520, forbids, under pain of criminal penalties and civil actions for damages, any wiretapping or eavesdropping not undertaken in accordance with specified procedures for obtaining judicial warrants authorizing the surveillance. Section 2511 (1) establishes a general prohibition against electronic eavesdropping "[e]xcept as otherwise specifically provided" in the statute. Later sections provide detailed procedures for judicial authorization of official interceptions of oral communications; when these procedures are followed the interception is not subject to the prohibitions of § 2511 (1). Section 2511 (2), however, specifies other situations in which the general prohibitions of § 2511 (1) do not apply. In addition, § 2511 (3) provides that:

"Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1143; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government. The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary to implement that power."

It is this subsection that lies at the heart of this case.

The interception here was without judicial warrant, it was not covered by the provisions of § 2511 (2) and it is too clear for argument that it is illegal under § 2511 (1) unless it is saved by § 2511 (3). The majority asserts that § 2511 (3) is a "disclaimer" but not an "exception." But however it is labeled, it is apparent from the face of the section and its legislative history that if this interception is one of those described in § 2511 (3), it is not reached by the statutory ban on unwarranted electronic eavesdropping.<sup>2</sup>

<sup>2</sup> I cannot agree with the majority's analysis of the import of § 2511 (3). Surely, Congress meant at least that if a court determined that in the specified circumstances the President could constitutionally intercept communications without a warrant, the general ban of § 2511 (1) would not apply. But the limitation on the applicability of § 2511 (1) was not open-ended; it was confined to those situations that § 2511 (3) specifically described. Thus, even assuming the constitutionality of a warrantless surveillance authorized by the President to uncover private or official graft forbidden by federal statute, the interception would be illegal under § 2511 (1) because it is not the type of presidential action saved by the Act by the provision of § 2511 (3). As stated in the text and footnote 3, the United States does not claim that Congress is powerless to require warrants for surveillances that the President otherwise would not be barred by the Fourth Amendment from undertaking without a warrant.

The defendants in the District Court moved for the production of the logs of any electronic surveillance to which they might have been subjected. The Government responded that conversations of Plamondon had been intercepted but took the position that turnover of surveillance records was not necessary because the interception complied with the law. Clearly, for the Government to prevail it was necessary to demonstrate, first, that the interception involved was not subject to the statutory requirement of judicial approval for wiretapping because the surveillance was within the scope of § 2511 (3); and, secondly, if the Act did not forbid the warrantless wiretap, that the surveillance was consistent with the Fourth Amendment.

The United States has made no claim in this case that the statute may not constitutionally be applied to the surveillance at issue here.<sup>3</sup> Nor has it denied that to comply with the Act the surveillance must either be supported by a warrant or fall within the bounds of the exceptions provided by § 2511 (3). Nevertheless, as I read the opinions of the District Court and the Court of Appeals, neither court stopped to inquire whether the challenged interception was illegal under the statute but proceeded directly to the constitutional issue without advertng to the time-honored rule that courts should abjure constitutional issues except where necessary to decision of the case before them. *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 346-348 (1936) (concurring opinion). Because I conclude that on the record before us the surveillance undertaken by the Government in this case was illegal under the statute itself, I find it unnecessary, and therefore improper, to consider or decide the constitutional questions which the courts below improvidently reached.

The threshold statutory question is simply put: Was the electronic surveillance undertaken by the Government in this case a measure deemed necessary by the President to implement either the first or second branch of the exception carved out by § 2511 (3) to the general requirement of a warrant?

The answer, it seems to me, must turn on the affidavit of the Attorney General offered by the United States in opposition to defendants' motion to disclose surveillance records. It is apparent

<sup>3</sup> See Tr. of Oral Arg. 13-14.

"Q. \* \* \* I take it from your answer that Congress could forbid the President from doing what you suggest he has the power to do in this case?

"Mr. Mardian [Assistant Attorney General]: That issue is not before this Court—

"Q. Well, I would—my next question will suggest that it is. Would you say, though, that Congress could forbid the President?

"Mr. Mardian: I think under the rule announced by this court in *Colony Catering* that within certain limits the Congress could severely restrict the power of the President in this area.

"Q. Well, let's assume Congress says, then, that the Attorney General, or the President may authorize the Attorney General in specific situations to carry out electronic surveillance if the Attorney General certifies that there is a clear and present danger to the security of the United States?

"Mr. Mardian: I think that Congress had already provided that, and—

"Q. Well, would you say that Congress would have the power to limit surveillances to situations where those conditions were satisfied?

"Mr. Mardian: Yes, I would—I would concur in that, Your Honor."

A colloquy appearing in the debates on the bill, appearing at 114 Cong. Rec. 14750-14751, indicates that some Senators considered § 2511 (3) as merely stating an intention not to interfere with the constitutional powers that the President might otherwise have to engage in warrantless electronic surveillance. But the Department of Justice, it was said, participated in the drafting of § 2511 (3) and there is no indication in the legislative history that there was any claim or thought that the supposed powers of the President reached beyond those described in the section. In any case, it seems clear that the congressional policy of noninterference was limited to the terms of § 2511 (3).

that there is nothing whatsoever in this affidavit suggesting that the surveillance was undertaken within the first branch of the § 2511 (3) exception, that is, to protect against foreign attack, to gather foreign intelligence or to protect national security information. The sole assertion was that the monitoring at issue was employed to gather intelligence information "deemed necessary to protect the nation from attempts of domestic organizations to attack and subvert the existing structure of the Government." App. 20.

Neither can I conclude from this characterization that the wiretap employed here fell within the exception recognized by the second sentence of § 2511 (3); for it utterly fails to assume responsibility for the judgment that Congress demanded: that the surveillance was necessary to prevent overthrow by force or other unlawful means or that there was any other clear and present danger to the structure or existence of the Government. The affidavit speaks only of attempts to attack or subvert; it makes no reference to force or unlawfulness; it articulates no conclusion that the attempts involved any clear and present danger to the existence or structure of the Government.

The shortcomings of the affidavit when measured against § 2511 (3) are patent. Indeed, the United States in oral argument conceded no less. The specific inquiry put to Government counsel was: "Do you think the affidavit, standing alone, satisfies the Safe Streets Act?" The Assistant Attorney General answered "No, sir. We do not rely upon the affidavit itself \* \* \*." Tr. of Oral Arg. 15.<sup>4</sup>

Government counsel, however, seek to save their case by reference to the *in camera* exhibit submitted to the District Court to supplement the Attorney General's affidavit.<sup>5</sup> It is said that the exhibit includes the request for wiretap approval submitted to the Attorney General, that the request asserted the need to avert a clear and present danger to the structure and existence of the Government, and that the Attorney General endorsed his approval on the request.<sup>6</sup> But I am unconvinced that the mere endorsement of the Attorney General on the request for approval submitted to him must be taken as the Attorney General's own opinion that the wiretap was necessary to avert a clear and present danger to the existence or structure

<sup>4</sup> See also Tr. of Oral Arg. 17:

"Q. \* \* \* If all the *in camera* document contained was what this affidavit contained, it would not comply with the Safe Streets Act?"

"Mr. Mardian: I would concur in that, Your Honor."

<sup>5</sup> The Government appears to have shifted ground in this respect. In its initial brief to this Court, the Government quoted the Attorney General's affidavit and then said, without qualification, "These were the grounds upon which the Attorney General authorized the surveillance in the present case." Brief for U. S. 21. Moreover, counsel for the Government stated at oral argument "that the *in camera* submission was not intended as a justification for the authorization, but simply [as] a proof of the fact that the authorization had been granted by the Attorney General of the United States, over his own signature." Tr. of Oral Arg. 6-7.

Later at oral argument, however, the Government said: "[T]he affidavit was never intended as the basis for justifying the surveillance in question. \* \* \* The justification, and again I suggest that it is only a partial justification, is contained in the *in camera* exhibit which was submitted to Judge Keith. \* \* \* We do not rely upon the affidavit itself but the *in camera* exhibit." Tr. of Oral Arg. 14-15. And in its reply brief, the Government says flatly: "Those [*in camera*] documents, and not the affidavit, are the proper basis for determining the ground upon which the Attorney General acted." Reply Brief for U. S. 9.

<sup>6</sup> Procedures in practice at the time of the request here in issue apparently resulted in the Attorney General's merely countersigning a request which asserted a need for a wiretap. We are told that under present procedures the Attorney General makes an express written finding of clear and present danger to the structure and existence of the Government before he authorizes a tap. Tr. of Oral Arg. 17-18.



of the Government when, in an affidavit later filed in court specifically characterizing the purposes of the interception and at least impliedly the grounds for his prior approval, the Attorney General said only that the tap was undertaken to secure intelligence thought necessary to protect against attempts to attack and subvert the structure of Government. If the Attorney General's approval of the interception is to be given a judicially cognizable meaning different from the meaning he seems to have ascribed to it in his affidavit filed in court, there obviously must be further proceedings in the District Court.

Moreover, I am reluctant to proceed in the first instance to examine the *in camera* material and either sustain or reject the surveillance as a necessary measure to avert the dangers referred to in § 2511 (3). What Congress excepted from the warrant requirement was a surveillance which *the President* would assume responsibility for deeming an essential measure to protect against clear and present danger. No judge can satisfy this congressional requirement.

Without the necessary threshold determination, the interception is, in my opinion, contrary to the terms of the statute and subject therefore to the prohibition contained in § 2515 against the use of the fruits of the warrantless electronic surveillance as evidence at any trial.<sup>7</sup>

There remain two additional interrelated reasons for not reaching the constitutional issue. First, even if it were determined that the Attorney General purported to authorize an electronic surveillance for purposes exempt from the general provisions of the Act, there would remain the issue whether his discretion was properly authorized. The United States concedes that the act of the Attorney General authorizing a warrantless wiretap is subject to judicial review to some extent, Brief for U.S. 21-23, and it seems improvident to proceed to constitutional questions until it is determined that the Act itself does not bar the interception here in question.

Second, and again on the assumption that the surveillance here involved fell within the exception provided by § 2511 (3), no constitutional issue need be reached in this case if the fruits of the wiretap were inadmissible on statutory grounds in the criminal proceedings pending against respondent Plamondon. Section 2511 (3) itself states that "[t]he contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding *only* where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary to implement that power." (Emphasis added.) There has been no determination by the District Court that it would be reasonable to use the fruits of the wiretap against Plamondon or that it would be necessary to do so to implement the purposes for which the tap was authorized.

<sup>7</sup> "Whenever any wire or oral communication has been intercepted, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter." 1 U. S. C. § 2515.



My own conclusion, again, is that, as long as nonconstitutional, statutory grounds for excluding the evidence or its fruits have not been disposed of, it is improvident to reach the constitutional issue.

I would thus affirm the judgment of the Court of Appeals unless the Court is prepared to reconsider the necessity for an adversary, rather than an *in camera*, hearing with respect to taint. If *in camera* proceedings are sufficient and no taint is discerned by the judge, this case is over, whatever the legality of the tap.

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## *Section D*

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